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COMMISSION OF ONTARIO BULLETIN

Government
Publications

Summer 1994

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The PCO Bulletin is published by the Pension Commission of Ontario, which is located at 250 Yonge Street, (just south of Dundas Street), 29th Floor, Toronto, Ontario M5B 2N7 (416) 314-0660 fax (416) 314-0650

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The Pension Benefits Act, R.S.O. 1990, c.P.8, Regulation 909 (as amended), the terms of the pension plan and the policy and practices of the PCO should be considered in determining specific legislative and other legal requirements and professional advice should be sought.

ISSN 1180-1565

On June 27, the Honourable Floyd Laughren, Minister of Finance announced changes to pension rules. The Minister's news release and supporting documentation were uploaded to the PCO Conference #149 on the BBS on Tuesday, June 28.

Because of their importance, this issue of the PCO Bulletin leads off with the news release and fact sheets followed by an explanation of the content of the amendments and, the bilingual text of the two amendments to Regulation 909.

For Immediate Release

June 27, 1994

Finance Minister Announces Changes to Pension Rules

Toronto -- Changes to Ontario's pension rules will help avoid needless hardship for workers who transfer their pensions to locked-in RRSPs, Finance Minister Floyd Laughren announced today.

The changes also include an extension to conditions for withdrawing surplus funds from wound-up pension plans.

"Ontario workers deserve to know they can retire in financial security," Mr. Laughren said. "In April, I announced we would change pension rules to make them fairer for workers who transfer their pension money to locked-in RRSPs. Today we are delivering on that commitment."

Today's announcement, effective June 24, 1994, included three changes to provincial regulations:

Payments from locked-in RRSPs

The amendments to **Pension Benefits Act** regulations allow anyone who has pension money in a locked-in RRSP to begin receiving retirement payments at the earliest time allowed by the pension plan from which the funds came. If there is money in the locked-in RRSP from more than one pension plan, payments may begin at the earliest time allowed by any of the plans.

Previously, people who transferred their pension funds to locked-in RRSPs could not begin receiving payments until age 55, even if the pension plan the money came from would have allowed early retirement payments to begin sooner.

Locking-in of pension money

The amendments also change rules regarding how much pension money can be locked in when it is transferred to an RRSP. This change responds to a limit imposed by Revenue Canada, under the federal **Income Tax Act**, on how much pension money could be transferred to a locked-in RRSP without becoming taxable. Any funds in excess of the Revenue Canada limit are taxable, while the rest remains tax-sheltered.

People affected by Revenue Canada's limit have to pay income tax on the excess, even though under Ontario rules this money was locked-in and not accessible.

Under the new rules, the excess will not be locked-in. It will be transferred to a regular (non-locked-in) RRSP.

Holders can withdraw it if they wish, and pay the appropriate income tax; or, if they have room to make an RRSP contribution for that year, can keep it in the regular RRSP and let it grow. The amount up to the limit imposed by Revenue Canada will continue to be locked-in, to preserve it for retirement.

Surplus withdrawal

The Finance Minister also announced he is extending the current conditions for withdrawing surplus money from wound-up pension plans until December 31, 1997. The conditions, first put in place in 1991, require that plan sponsors and members negotiate the division of the surplus money, and that at least two-thirds of the plan beneficiaries must agree.

"Experience has shown these conditions are an effective compromise," Mr. Laughren added.

"Previously, parties resorted to costly court action to settle their differences. Extending the current rules for three years maintains a workable arrangement."

Access to Early Retirement Benefits - Fact Sheet

On Friday, June 24, 1994, the Ontario Government changed the regulations under the *Pension Benefits Act* (the "PBA") to allow payments from locked-in RRSPs and Life Income Funds (LIFs) to begin before age 55 in some circumstances.

This change removes a restriction in the previous rules which prevented former plan members from receiving payments from RRSPs/LIFs until age 55. This change is consistent with rules on when people may begin to receive payments from pension plans and deferred annuities.

Previous Situation

When a person leaves a job or is laid off, they may transfer the pension they have built up to another retirement savings arrangement. Under the old rules, if they transferred their pension to a locked-in RRSP or LIF, they had to wait until age 55 to receive retirement benefits, even if their pension plan would have allowed them to receive payments earlier.

Former plan members who left their pension with their former employer, transferred it to the plan of a new employer, or used the money in their pension plan to purchase a deferred annuity, did not face the same restriction.

After Change

Under the new rules, anyone who has a locked-in RRSP or LIF may begin to receive payments at the earliest date they would have received payments directly from the pension plan. For example, if the pension plan allowed early retirement payments to begin at age 50, payments from the locked-in RRSP or LIF are allowed to begin at age 50.

In addition, if a person has money in their locked-in RRSP or LIF originating from more than one pension plan, payments may begin at the earliest date allowed by any of the plans.

There are approximately 400 pension plans in Ontario which allow early retirement payments to begin before age 55. Under the new rules, members of these plans

who have transferred their pensions to a locked-in RRSP or LIF no longer have to wait until they turn 55 to begin receiving their benefits.

Portability of Pension Benefits - Fact Sheet

On Friday, June 24, the Ontario Government changed the regulations under the *Pension Benefits Act* (the "PBA") regarding the locking-in of pension benefits in certain situations when a member of a pension plan transfers their pension money to a RRSP. This change permits a portion of these funds to be "unlocked" in certain circumstances so that it is accessible to the person holding the RRSP.

Previous Situation

Members of a pension plan who leave their employment or whose pension plan is terminated may choose to transfer their pension money to an RRSP. The PBA "locked-in" the RRSP so that the money could not be accessed, preserving it for retirement.

Until recently, all of the money transferred to an RRSP was fully tax-sheltered under the federal *Income Tax Act*. A worker could transfer the full amount of the money without having to pay any income tax. Effective January 1, 1992, Revenue Canada limited the amount of the transferred money that is tax-sheltered. Income tax would have to be paid on the amount over the limit. However, because of the Ontario PBA's locking-in rules, individuals did not have access to this money.

Current Situation

As a result of the changes to the PBA regulations, the full amount of the pension money may be transferred to an individual's RRSP. However, the RRSP will have two parts:

- 1) The amount of money up to the *Income Tax Act* limit will be in a Locked-In Retirement Account (LIRA). The amount in the LIRA will be locked in until retirement and will be fully tax-sheltered.
- 2) The portion that exceeds the limit will be in a regular (non locked-in) RRSP. Income tax will have to be paid on the amount in the regular RRSP, but it will be accessible. The individual will be able to cash it in, or if they have room for an RRSP contribution for that tax year, they may leave it in the RRSP so that it can grow.

This change will also apply if an individual transfers their pension money from the pension fund to a life income fund (LIF). The amount up to the *Income Tax Act* limit may be transferred to a LIF, and the amount that exceeds the limit may be transferred to a Registered Retirement Income Fund (RRIF) and cashed.

This change will assist pension plan members who have large pension fund savings as a result of a generous plan or the member's long service. It removes a significant conflict of laws between Ontario's PBA and the federal *Income Tax Act*.

Surplus Withdrawals from Wound-up Pension Plans - Fact Sheet

On Friday, June 24, 1994, the Ontario Government extended *Pension Benefit Act* (the "PBA") regulations, originally put in place in December 1991, which provide conditions under which employers may access surplus from wound-up pension plans. The extension will be in place until December 31, 1997.

Surplus occurs in pension plans when assets exceed liabilities. (An "asset" is the value of investments plus the interest they earn and a "liability" is the money required to meet pension plan obligations).

Under the regulations, employers may withdraw surpluses from pension plans only where the employer obtains the written agreement of the bargaining agent. If there is no bargaining agent, at least two-thirds of plan members must agree to the withdrawal. If the Pension Commission considers it appropriate in the circumstances, it may also require the employer to get the agreement of all plan beneficiaries.

Prior to 1991, the requirements of the PBA made the entitlement and distribution of surplus on wind-up very difficult. Employers and employees often resorted to costly and time-consuming legal action to resolve these questions.

These conditions encourage the parties to negotiate to resolve disputes over surplus ownership. The three year extension continues a workable arrangement.

Explanatory Notes on the Content of the Amendments to the Regulation

The new regulations deal with four areas that needed to be addressed in the regulations to the Pension Benefits Act (the "PBA") for a variety of reasons. O. Reg. 409/94 resolves a conflict which arises, under certain circumstances, between Ontario's pension law and the requirements of the *Income Tax Act* (Canada). Greater certainty with respect to certain surplus matters is also introduced in that regulation.

I Conflicts with the Income Tax Act (Canada)

The amendments replace what was known previously and informally as locked-in RRSPs with the term locked-in retirement accounts ("LIRA"). The new term is designed to distinguish between regular (unlocked) RRSPs and RRSPs which are locked-in under pension law now referred to as LIRAs. Its purpose is to draw a distinction between prescribed tax-deferred savings arrangements which are required to be administered in accordance with the PBA and the Regulation (LIRAs and LIFs) and those which are not locked-in (RRSPs and RRIFs).

The ITA (Canada) imposes maximum limits on the amount of pension monies which can be transferred from a defined benefit plan to a tax-assisted retirement savings arrangement or a defined contribution provision under the same plan on a tax-deferred basis. This can occur in the following circumstances: when a plan member terminates employment, the plan winds up, or the plan converts from defined benefit to defined contribution. The PBA prescribes the method to be used to determine the minimum amount which can be transferred.

When the benefits of some pension plan members are commuted, the commuted values may exceed the ITA (Canada) limit. If the member elects to transfer the commuted value on termination of employment or, must transfer the commuted value out on plan wind up, the member may face adverse tax consequences. The amendments provide that upon termination of employment, plan wind up or conversion, where the amount which can be transferred under the PBA exceeds the maximum amount which may be transferred under the ITA on a tax-deferred basis, the excess may be transferred to a regular (unlocked) RRSP or a Registered Retirement Income Fund (RRIF). It is important to understand that the payment of an excess amount from a pension plan in the form of a

lump sum cash payment directly to an individual is not permitted.

(Please note that if the locked-in portion of the funds is transferred to a LIRA, the unlocked portion must be transferred to an RRSP. If the locked-in portion is transferred to a LIF, the unlocked portion must be transferred to a RRIF.)

This regulation permits the unlocking, only on the transfer out of a pension plan, of pension funds that exceed ITA (Canada) maximum amounts for tax-deferral, so the funds can be accessed to pay the tax on them. For example, if a member has unused RRSP deduction room, the member may choose to leave money in the RRSP or withdraw it. If the member does not have unused RRSP deduction room, the member will want to withdraw money to pay tax and avoid the imposition of the federal penalty tax on excess RRSP contributions.

Funds transferred out of a pension plan prior to June 24, 1994 that were in excess of ITA tax-deferred maximums are not affected by this new regulation. Only funds transferred out of a pension plan on and after June 24, 1994 that are in excess of ITA tax-deferred maximums are affected by this change to the regulation.

Any enquiries concerning income tax consequences or RRSP concerns should be directed to Revenue Canada for response.

II Rights to Early Retirement

This regulation permits retirement income from funds transferred out of a pension plan to commence on the earliest date that the individual could have started receiving pension income under the terms of the pension plan or under the Act (grow-in provisions).

Plan members may transfer their pension funds out of a pension plan at retirement, death or termination of plan membership on a locked-in basis, and may begin receiving retirement income generated from those funds no earlier than age 55. Where the pension plan from which the funds were transferred allowed pension income to begin payment earlier than age 55, that right is lost. Although the former age 55 restriction is consistent with most pension plans, members of pension plans which allow pension payments to begin prior to age 55 have sometimes transferred their

pension funds out of the plan without realizing that in doing so they would lose the right to start receiving pension payments at the earlier date.

The new regulation allows an individual to receive retirement payments which commence at the earliest date on which the former member is entitled to receive payments under the terms of any former employer's pension plan from which money was transferred into the locked-in retirement account.

III Surplus Withdrawals on Wind Up

The amendment extends the current provisions for surplus withdrawals from wound up pension plans where payment of surplus is being made to the employer.

Previous provisions which require negotiation of surplus distribution where the employer has entitlement on wind up by requiring member consent expire on December 31, 1994. The new regulation will continue current surplus withdrawal requirements for three more years - until December 31, 1997.

The amendment also extends the deadline for clarification of surplus entitlement in plans texts. Employers currently have until December 31, 1994 to amend their plans to clarify entitlement to surplus on both an on-going and wind up basis. If they do not, plans will be deemed to prohibit withdrawal of surplus while on-going, and on wind up will require surplus to be paid to members and former members. Originally, this deadline was December 31, 1986 and the most recent extension was made in 1990. This amendment to the Regulation extends the deadline for three more years until December 31, 1997.

IV Housekeeping Corrections and Clarifications

The regulation will correct errors and reduce uncertainty in relation to the following housekeeping corrections and clarifications:

- clarifies that "regulation date" in Regulation 909 is November 26, 1992;
- corrects errors in references to section numbers in section 47.1 of the Regulation;
- corrects a translation error in the French version of Form 3 to the Regulation;
- corrects subsection reference in s. 24(3.1).

Regulations

On June 24, 1994, O. Reg. 408/94 was filed amending Regulation 909/90. The authoritative bilingual version is found in the July 9, 1994 issue of the Ontario Gazette.

REGULATION TO AMEND REGULATION 909 OF THE REVISED REGULATIONS OF ONTARIO, 1990 MADE UNDER THE PENSION BENEFITS ACT

Note: Since January 1, 1994, Regulation 909 has been amended by Ontario Regulation 142/94. For prior amendments, see the Table of Regulations in the Statutes of Ontario, 1993.

1. (1) Subsection 47(9) of Regulation 909 of the Revised Regulations of Ontario, 1990 is amended by striking out "the 31st day of December, 1994" at the end and substituting "December 31, 1997".
2. (2) Subsection 47(10) of the Regulation is amended by striking out "the 31st day of December, 1994" at the end and substituting "December 31, 1997".

RÈGLEMENT MODIFIANT LE RÈGLEMENT 909 DES RÈGLEMENTS REFONDUS DE L'ONTARIO DE 1990 PRIS EN APPLICATION DE LA LOI SUR LES RÉGIMES DE RETRAITE

Remarque: Depuis le 1er janvier 1994, le Règlement 909 a été modifié par le Règlement de l'Ontario 142/94. Pour les modifications antérieures, voir la Table des règlements qui figure dans les Lois de l'Ontario de 1993.

1. (1) Le paragraphe 47 (9) du Règlement 909 des Règlements refondus de l'Ontario de 1990 est modifié par substitution, à «31 décembre 1994» à la fin, de «31 décembre 1997».
2. (2) Le paragraphe 47 (10) du Règlement est modifié par substitution, à «31 décembre 1994» à la fin, de «31 décembre 1997».

On June 24, 1994, O. Reg. 409/94 was filed amending Regulation 909/90. The authoritative bilingual version is found in the July 9, 1994 issue of the Ontario Gazette.

REGULATION TO AMEND REGULATION 909 OF THE REVISED REGULATIONS OF ONTARIO, 1990 MADE UNDER THE PENSION BENEFITS ACT

Note: Since January 1, 1994, Regulation 909 has been amended by Ontario Regulation 142/94. For prior amendments, see the Table of Regulations in the Statutes of Ontario, 1993.

1. The definition of "Regulation date" in subsection 1(2) of Regulation 909 of the Revised Regulations of Ontario, 1990 is revoked and the following substituted:

"Regulation date" means November 26, 1992.

2. Subsection 8(3) of the Regulation is amended by striking out "the 31st day of December 1994" at the end and substituting "December 31, 1997".
3. (1) Subsection 21(1) of the Regulation is revoked and the following substituted:

(1) This section governs the transfer of an amount equal to the commuted value of a deferred pension under clause 42(1)(b) of the Act into a prescribed retirement savings arrangement.

(1.1) The following are the prescribed retirement savings arrangements:

1. A life income fund.
2. A locked-in retirement account.
3. An RRIF.
4. An RRSP.

- (1.2) If the amount to be transferred does not exceed the amount prescribed for such a transfer under the *Income Tax Act* (Canada), it may be transferred only into a life income fund or a locked-in retirement account.

(1.3) If the amount to be transferred is greater than the amount prescribed for such a transfer under the *Income Tax Act* (Canada),

(a) that portion that does not exceed the prescribed amount may be transferred only into a life income fund or a locked-in retirement account; and

(b) that portion that exceeds the prescribed amount may be transferred only as described in subsection (1.4) or (1.5).

(1.4) If the amount transferred under clause (1.3)(a) is transferred into a life income fund, the amount transferred under clause (1.3)(b) may be transferred only into an RRIF.

(1.5) If the amount transferred under clause (1.3)(a) is transferred into a locked-in retirement account, the amount transferred under clause (1.3)(b) may be transferred only into an RRSP.

(2) Subsection 21(2) of the Regulation, excluding the clauses, is revoked and the following substituted:

(2) A contract to establish a locked-in retirement account shall provide that,

.....

(3) Subclause 21(2)(a)(ii) of the Regulation is amended by striking out "registered retirement savings plan that meets the requirements of this section" in the second and third lines and substituting "locked-in retirement account".

(4) Subclause 21(2)(a)(iii) of the Regulation is revoked and the following substituted:

(iii) to purchase an immediate or deferred life annuity described in subsection (2.1) that is provided by a person authorized under the laws of Canada or a province to sell annuities as defined in section 248 of the *Income Tax Act* (Canada) under an insurance contract that meets the requirements of section 22,

(5) Section 21 of the Regulation is amended by adding the following subsection:

(2.1) The annuity must not begin before the earlier of,

(a) the earliest date on which the former member is entitled to receive pension benefits under the Act as a result of termination of employment or termination of membership in any pension plan from which money was transferred into the locked-in retirement account; or

(b) the earliest date on which the former member is entitled to receive pension benefits under any pension plan described in clause (a) as a result of termination of employment or termination of membership in the plan.

(6) Subsection 21(5) of the Regulation is revoked and the following substituted:

(5) In this section,

"life income fund" means an RRIF that meets the requirements set out in Schedule 1; ("fonds de revenu viager")

"locked-in retirement account" means an RRSP that meets the requirements set out in subsection (2); ("compte de retraite avec immobilisation des fonds")

"RRIF" means an registered retirement income fund established in accordance with the *Income Tax Act* (Canada). ("FERR")

"RRSP" means a registered retirement savings plan established in accordance with the *Income Tax Act* (Canada). ("REÉR")

4. The Regulation is amended by adding the following section:

21.1 (1) This section applies if an amendment to a pension plan with defined benefits converts them to defined contribution benefits.

(2) A member with defined benefits who elects to convert them in accordance with the amendment to the pension plan is entitled to require the administrator to transfer the amount described in subsection (4) to a registered retirement savings plan established in accordance with the *Income Tax Act* (Canada).

(3) The administrator shall make the transfer in accordance with the instructions of the member but only if the transfer complies with the Act and this Regulation.

(4) The amount that may be transferred is that portion of the amount of the commuted value of the member's defined benefits that exceeds the amount prescribed under the *Income Tax Act* (Canada) for a transfer of benefits from a defined benefit provision of a pension plan to a money purchase provision of the same plan.

(5) A transfer made in accordance with this section is prescribed for the purposes of clause 63(5)(c) of the Act.

5. Subsection 24 (3.1) of the Regulation is amended by striking out "subsection (2)" in the first line and substituting "subsection (3)".

6. (1) Paragraphs 3, 4, 5, and 6 of section 47.1 of the Regulation are revoked and the following substituted:

3. Paragraphs 2, 3, 4, and 5 of subsection 4(4) of this Regulation.
4. Section 30 of this Regulation.
5. Section 37 of this Regulation.
6. Section 76 of this Regulation, with respect to the plan fiscal years that ended on the 31st day of March in 1989 and 1990.

(2) Paragraphs 3, 4, 5, and 6 of Section 47.2 of the Regulations are revoked and the following substituted:

3. Paragraphs 2, 3, 4 and 5 of subsection 4(4) of this Regulation.
4. Section 30 of this Regulation.
5. Section 37 of this Regulation.
6. Section 76 of this Regulation, with respect to the plan fiscal years that ended on the 31st day of March in 1989 and 1990.

(3) This section shall be deemed to have come into force on the day on which Ontario Regulation 760/91 came into force (Dec. 20, 1991).

7. Clause 4(1)(a) of Schedule 1 to the Regulation is revoked and the following substituted:

(a) no earlier than the earlier of,

- (i) the earliest date on which the former member is entitled to receive pension benefits under the Act as a result of termination of employment or termination of membership in any pension plan from which money was transferred into the life income fund, or
- (ii) the earliest date on which the former member is entitled to receive pension benefits under any pension plan described in subclause (i) as a result of termination of employment or termination of membership in the plan;

8. The French version of Form 3 to the Regulation is amended by striking out "qui ne me procurera ni pension de survivant ni pension" in the eighth and ninth lines and substituting "qui ne me procurera pas de pension de survivant ou me procurera une pension".

RÈGLEMENT MODIFIANT LE RÈGLEMENT 909
DES RÈGLEMENTS REFONDUS
DE L'ONTARIO DE 1990
PRIS EN APPLICATION DE LA LOI SUR
LES RÉGIMES DE RETRAITE

Remarque: Depuis le 1er janvier 1994, le Règlement 909 a été modifié par le Règlement de l'Ontario 142/94. Pour les modifications antérieures, voir la Table des règlements qui figure dans les Lois de l'Ontario de 1993.

1. La définition de «date du Règlement» au paragraphe 1 (2) du Règlement 909 des Règlements refondus de l'Ontario de 1990 est abrogée et remplacée par ce qui suit :

«date du Règlement» Le 26 novembre 1992.

2. Le paragraphe 8 (3) du Règlement est modifié par substitution, à «31 décembre 1994» à la fin, de «31 décembre 1997».

3. (1) Le paragraphe 21 (1) du Règlement est abrogé et remplacé par ce qui suit :

(1) Le présent article régit le transfert, visé à l'alinéa 42 (1) b) de la Loi, d'un montant égal à la valeur de rachat d'une pension différée dans un arrangement d'épargne-retraite prescrit.

(1.1) Les arrangements d'épargne-retraite prescrits sont les suivants:

1. Les fonds de revenu viager.
2. Les comptes de retraite avec immobilisation des fonds.
3. Les FERR.
4. Les REÉR.

(1.2) Si le montant à transférer n'est pas supérieur au montant prescrit dans le cas d'un tel transfert aux termes de la *Loi de l'impôt sur le revenu* (Canada), il ne peut être transféré que dans un fonds de revenu viager ou dans un compte de retraite avec immobilisation des fonds.

(1.3) Si le montant à transférer est supérieur au montant prescrit dans le cas d'un tel transfert aux termes de la *Loi de l'impôt sur le revenu* (Canada) :

- a) la partie qui n'est pas supérieure au montant prescrit ne peut être transférée que dans un fonds de revenu viager ou dans un compte de retraite avec immobilisation des fonds;
- b) la partie qui est supérieure au montant prescrit ne peut être transférée que de la manière prévue au paragraphe (1.4) ou (1.5).

(1.4) Si le montant transféré en vertu de l'alinéa (1.3) a) l'est dans un fonds de revenu viager, le montant transféré en vertu de l'alinéa (1.3) b) ne peut être transféré que dans un FERR.

(1.5) Si le montant transféré en vertu de l'alinéa (1.3) a) l'est dans un compte de retraite avec immobilisation des fonds, le montant transféré en vertu de l'alinéa (1.3) b) ne peut être transféré que dans un REÉR.

(2) Le paragraphe 21 (2) du Règlement, à l'exception des alinéas, est abrogé et remplacé par ce qui suit:

(2) Le contrat qui constitue un compte de retraite avec immobilisation des fonds stipule ce qui suit:

(3) Le sous-alinéa 21(2) a) (ii) du Règlement est modifié par substitution à «régime enregistré d'épargne-retraite qui satisfait aux exigences du présent article» aux deuxième et troisième lignes, de «compte de retraite avec immobilisation des fonds».

(4) Le sous-alinéa 21(2) a) (iii) du Règlement est abrogé et remplacé par ce qui suit :

(iii) pour constituer une rente viagère immédiate ou différée visée au paragraphe (2.1) qui est offerte par une personne autorisée en vertu des lois du Canada ou d'une province à offrir des rentes, au sens de l'article 248 de la *Loi de l'impôt sur le revenu* (Canada), aux termes d'un contrat d'assurance qui satisfait aux exigences de l'article 22.

(5) L'article 21 du Règlement est modifié par adjonction du paragraphe suivant :

(2.1) La rente ne doit pas commencer à une date antérieure à celle des dates suivantes qui survient en premier :

- a) la première date à laquelle l'ancien participant a le droit de recevoir des prestations de retraite aux termes de la Loi par suite de la cessation de son emploi ou de celle de son affiliation à un régime duquel des sommes ont été transférées dans le compte de retraite avec immobilisation des fonds;
- b) la première date à laquelle l'ancien participant a le droit de recevoir des prestations de retraite aux termes d'un régime visé à l'alinéa a) par suite de la cessation de son emploi ou de celle de son affiliation au régime.

(6) Le paragraphe 21 (5) du Règlement est abrogé et remplacé par ce qui suit :

(5) Les définitions qui suivent s'appliquent au présent article.

«compte de retraite avec immobilisation des fonds» REÉR qui satisfait aux exigences énoncées au paragraphe (2). («locked-in retirement account»)

«FERR» Fonds enregistré de revenu de retraite constitué conformément à la *Loi de l'impôt sur le revenu* (Canada). («RRIF»)

«fonds de revenu viager» FERR qui satisfait aux exigences énoncées à l'annexe 1. («life income fund»)

«REÉR» Régime enregistré d'épargne-retraite constitué conformément à la *Loi de l'impôt sur le revenu* (Canada). («RRSP»)

4. Le Règlement est modifié par adjonction de l'article suivant :

21.1 (1) Le présent article s'applique si la modification d'un régime à prestations déterminées convertit celles-ci en prestations à cotisation déterminée.

(2) Le participant qui a droit à des prestations déterminées et qui choisit de les convertir conformément à la modification du régime a le droit d'exiger de l'administrateur qu'il transfère le montant visé au paragraphe (4) dans un régime enregistré d'épargne-retraite constitué conformément à la *Loi de l'impôt sur le revenu* (Canada).

(3) L'administrateur effectue le transfert conformément aux instructions du participant, mais seulement si le transfert est conforme à la Loi et au présent règlement.

(4) Le montant qui peut être transféré correspond à la partie de la valeur de rachat des prestations déterminées du participant qui est supérieure au montant prescrit aux termes de la *Loi de l'impôt sur le revenu* (Canada) dans le cas d'un transfert de prestations d'une disposition à prestations déterminées d'un régime à une disposition à cotisations déterminées du même régime.

(5) Un transfert effectué conformément au présent article est prescrit pour l'application de l'alinéa 63 (5) c) de la Loi.

5. Le paragraphe 24 (3.1) du Règlement est modifié par substitution, à «paragraphe (2)» à la première ligne, de «paragraphe (3)».

6. (1) Les dispositions 3, 4, 5 et 6 de l'article 47.1 du Règlement sont abrogées et remplacées par ce qui suit:

3. Les dispositions 2, 3, 4 et 5 du paragraphe 4 (4) du présent règlement.
4. L'article 30 du présent règlement.

5. L'article 37 du présent règlement.

6. L'article 76 du présent règlement, relativement aux exercices du régime qui se sont terminés les 31 mars 1989 et 1990.

(2) Les dispositions 3, 4, 5 et 6 de l'article 47.2 du Règlement sont abrogées et remplacées par ce qui suit :

3. Les dispositions 2, 3, 4 et 5 du paragraphe 4 (4) du présent règlement.

4. L'article 30 du présent règlement.

5. L'article 37 du présent règlement.

6. L'article 76 du présent règlement, relativement aux exercices du régime qui se sont terminés les 31 mars 1989 et 1990.

(3) Le présent article est réputé être entré en vigueur le jour de l'entrée en vigueur du Règlement de l'Ontario 760/91 (le 20 décembre 1991).

7. L'alinéa 4 (1) a) de l'annexe 1 du Règlement est abrogé et remplacé par ce qui suit :

a) au plus tôt à celle des dates suivantes qui survient en premier :

(i) la première date à laquelle l'ancien participant a le droit de recevoir des prestations de retraite aux termes de la Loi par suite de la cessation de son emploi ou de celle de son affiliation à un régime duquel des sommes ont été transférées dans le fonds de revenu viager,

(ii) la première date à laquelle l'ancien participant a le droit de recevoir des prestations de retraite aux termes d'un régime visé au sous-alinéa (i) par suite de la cessation de son emploi ou de celle de son affiliation au régime;

8. La version française de la formule 3 du Règlement est modifiée par substitution, à «qui ne me procurera ni pension de survivant ni pension» aux huitième et neuvième lignes, de «qui ne me procurera pas de pension de survivant ou me procurera une pension».

On March 10, 1994, O. Reg. 142/94 was filed amending Regulation 909/90. This made the Regulation officially bilingual. Since O. Reg. 142/94 is the French version of Regulation 909, it is not reproduced here owing to length. The authoritative version of O. Reg. 142/94 is found in the March 26, 1994 issue of the Ontario Gazette.

We have, however, reproduced the French version of all PCO prescribed forms (except the pre-printed Annual Information Return, Form 2) including:

- Form 1 Application for Registration of a Pension Plan
- Form 1.1 Application for Registration of a Pension Plan Amendment
- Form 3 Spousal Waiver of Joint and Survivor Pension
- Form 4 Spousal Waiver of Pre-retirement Death Benefit

Although not a prescribed form, the French version of Investment Policy Return (which is required with the first filing of the Statement of Investment Policies and Goals) is also included.

Pension practitioners are invited to copy or duplicate the French forms found here in the interest of facilitating administrative responsibilities and compliance with the Act and Regulation.

Readers of the *PCO Bulletin* should be aware that henceforth, all amendments to the Regulation will be reproduced in this publication in the official bilingual form.



Commission des
régimes de retraite
de l'Ontario

250, rue Yonge
29^e étage
Toronto, (Ontario) M5B 2N7

50500 201

Formule 1 - Loi sur les régimes de retraite
Règlement 909

(Retourner l'original accompagné des droits -
Conserver le brouillon)

DEMANDE D'ENREGISTREMENT D'UN RÉGIME DE RETRAITE

(Écrire en caractères d'imprimerie)

RENSEIGNEMENTS CONCERNANT L'ADMINISTRATEUR

1. Nom de l'administrateur:

(Remarque: Si l'administrateur est une personne morale, un conseil ou un comité de retraite,
donner le nom de la personne morale, du conseil ou du comité.)

2. Adresse et code postal de l'administrateur:

3. Numéro de téléphone de l'administrateur: ()

4. Indiquer si l'administrateur du régime est: (cocher à l'endroit approprié)

☐ un ou des employeurs désignés
à la disposition 7;

☐ un conseil de fiduciaires;

☐ un comité de retraite;

☐ un conseil, une commission ou un organisme auquel
une loi de la Législature confie l'administration du
régime de retraite.

☐ une compagnie d'assurance;

5. Si l'administrateur est un comité de retraite, un conseil, une commission ou un organisme, annexer à la présente
formule le nom, l'adresse et le code postal de chaque membre.

6. Si l'administrateur est un comité de retraite, indiquer le nombre de membres qui sont des représentants:

(a) de l'employeur ou des employeurs ou de l'autre personne qui est tenue de cotiser au régime de
retraite pour leur compte; _____

(b) des participants au régime de retraite; _____

(c) TOTAL _____

Réservé à l'usage de la CRO	
C	_____ /00/
RA	_____ /00/
<input type="checkbox"/> Form signed	
<input type="checkbox"/> No plan documents received	
<input type="checkbox"/> Additional fee needed:	
	\$ _____
<input type="checkbox"/> Refund issued:	
	\$ _____
Verified by: _____	

RENSEIGNEMENTS CONCERNANT L'EMPLOYEUR

7. Nom de l'employeur: _____

8. Adresse et code postal de l'employeur: _____

9. Numéro de téléphone de l'employeur: (_____) _____
10. Y a-t-il d'autres employeurs, y compris des filiales ou des sociétés membres du même groupe, dont des employés participent au régime? _____ oui _____ non

Si oui, annexer à la présente formule le nom, l'adresse et le code postal de chacun des autres employeurs.

11. L'employeur ou les employeurs sont-ils: (cocher à l'endroit le plus approprié)

- (a) _____ une entreprise à propriétaire unique;
- (b) _____ une société en nom collectif;
- (c) _____ une association enregistrée;
- (d) _____ une personne morale;
- (e) _____ un gouvernement ou un organisme municipal;
- (f) _____ un gouvernement ou un organisme provincial;
- (g) _____ un gouvernement ou un organisme fédéral;
- (h) _____ autre (préciser) _____

12. Quelle est l'activité principale de l'employeur? _____

13. Quelle est la nature de l'entreprise de l'employeur ou des employeurs? (cocher à l'endroit approprié - ✓)

- (a) emploi inclus _____
- (b) emploi autre qu'un emploi inclus _____

Remarque: Un emploi inclus est un emploi rattaché à la mise en service d'un ouvrage, d'une entreprise ou d'une activité de compétence fédérale.

• transport aérien, naval, ou par chemin
de fer, camionnage interprovincial
• télégraphe, radio et télédiffusion
• fourrage, minoterie, graineterie, silos

• activité dans le Territoire du Yukon ou
les Territoires du Nord-Ouest
• banque
• l'énergie atomique

RENSEIGNEMENTS CONCERNANT LE RÉGIME DE RETRAITE

14. Quel est le nom du régime de retraite? _____

15. Quelle est la date de prise d'effet du régime? _____
(jour, mois, année)

16. Quelle est la date de fin d'exercice du régime? _____
(jour, mois)

17. Une convention collective crée-t-elle le régime de retraite ou en justifie-t-elle l'existence?

_____ oui _____ non *Si oui, annexer une copie de la convention collective à la présente formule.*

18. Existe-t-il d'autres régimes de retraite déjà établis par l'employeur ou les employeurs désignés à la disposition 7 ou par une filiale ou une société membre du même groupe?

_____ oui _____ non

Si oui, annexer à la présente formule une liste précisant:

- (a) le nom du ou des régimes;
- (b) le nom de l'employeur ou des employeurs pour chaque régime s'il y a des différences avec ceux qui sont désignés à la disposition 7;
- (c) le numéro de certificat d'enregistrement de chaque régime;
- (d) le nom du gouvernement auprès duquel chaque régime est enregistré;
- (e) le nombre de participants ontariens à chaque régime.

19. Les participants couverts par le nouveau régime ont-ils participé dans le passé à un autre régime de retraite de la compagnie, y compris une compagnie que celle-ci remplace, une filiale ou une société membre du même groupe?

_____ oui _____ non

Si oui, donner le nom du ou des régimes antérieurs et leur numéro d'enregistrement provincial, et préciser leur situation actuelle:

RENSEIGNEMENTS CONCERNANT LE FINANCEMENT

20. Les prestations fournies par le régime sont-elles garanties ou assurées entièrement par une compagnie d'assurance?

_____ oui _____ non

Si oui, indiquer le nom, l'adresse et le code postal de la compagnie d'assurance:

Si non, une caisse de retraite doit être établie. Indiquer le nom de la caisse ainsi que le nom, l'adresse et le code postal du dépositaire de son actif:

Nom de la caisse: _____

Nom du dépositaire: _____

Adresse postale: _____

21. Indiquer le nom, l'adresse et le code postal du conseiller en placement, le cas échéant:

22. Indiquer le nom, l'adresse et le code postal du bureau de conseillers en actuariat, le cas échéant:

PARTICIPANTS AU RÉGIME ET DROITS D'ENREGISTREMENT

23. Inscrire ci-dessous le nombre de participants, sans compter les anciens participants, et le lieu de leur emploi à la date de prise d'effet du régime:

<u>Lieu d'emploi</u>	<u>Hommes</u>	<u>Femmes</u>	<u>Total</u>
Ontario	<hr/>	<hr/>	<hr/>
Terre-Neuve	<hr/>	<hr/>	<hr/>
Ile-du-Prince-Édouard	<hr/>	<hr/>	<hr/>
Nouvelle-Écosse	<hr/>	<hr/>	<hr/>
Nouveau-Brunswick	<hr/>	<hr/>	<hr/>
Québec	<hr/>	<hr/>	<hr/>
Manitoba	<hr/>	<hr/>	<hr/>
Saskatchewan	<hr/>	<hr/>	<hr/>
Alberta	<hr/>	<hr/>	<hr/>
Colombie-Britannique	<hr/>	<hr/>	<hr/>
Territoire du Yukon	<hr/>	<hr/>	<hr/>
Territoires du Nord-Ouest	<hr/>	<hr/>	<hr/>
Hors du Canada	<hr/>	<hr/>	<hr/>

TOTAL

*

(*Remarque: Ce total doit être égal au nombre total de participants à la date de prise d'effet du régime.)

24. Remplir l'annexe fournie par le surintendant afin de calculer les droits d'enregistrement requis, et indiquer le montant payable:

_____ \$

DOCUMENTS À ANNEXER

25. La présente demande d'enregistrement doit être accompagnée des documents suivants:
- (a) des copies certifiées conformes des documents qui créent le régime de retraite et en justifient l'existence;
 - (b) des copies certifiées conformes des documents qui créent la caisse de retraite et en justifient l'existence;
 - (c) une copie certifiée conforme des accords réciproques de transfert qui se rapportent au régime de retraite;
 - (d) une copie certifiée conforme des explications et des autres renseignements qui doivent être fournis aux participants et aux personnes admissibles au régime de retraite aux termes du paragraphe 25(1) de la Loi (Renseignements fournis par l'administrateur).
26. Indiquer ci-dessous si les documents et renseignements suivants sont annexés ou s'ils sont sans objet (S/O):
- _____ Copie certifiée conforme du texte du régime et des modifications, le cas échéant.
 - _____ Copie certifiée conforme de la convention collective, si le régime a été établi conformément à une convention collective de travail.
 - _____ Copie certifiée conforme du ou des contrats de fiducie.
 - _____ Copie certifiée conforme du ou des contrats de dépôt auprès d'une compagnie d'assurance.
 - _____ Copie certifiée conforme du ou des contrats de rente collective.
 - _____ Copie certifiée conforme de la déclaration explicative fournie aux participants et aux personnes admissibles au régime (paragraphe 25(1) de la Loi).
 - _____ Copie certifiée conforme de la déclaration des politiques et des objectifs de placement.
 - _____ Liste des nom et adresse de chaque membre du comité de retraite, du conseil, de l'organisme ou de la commission, demandée à la disposition 5.
 - _____ Liste des autres régimes de retraite déjà établis par l'employeur, demandée à la disposition 18.
 - _____ Liste des nom et adresse de chaque employeur participant au régime, demandée à la disposition 10.
 - _____ Liste des noms et des numéros de certificat d'enregistrement de tous les régimes de retraite antérieurs de l'employeur ou des employeurs, demandée à la disposition 19.
 - _____ Autre (*préciser*) _____
 - _____ Droits devant accompagner la demande, calculés conformément à l'annexe fournie par le surintendant et payables à l'ordre du *ministre des Finances*.

DÉCLARATION DE L'ADMINISTRATEUR

Je soussigné _____, demande par les présentes l'enregistrement, aux termes de la Loi et des règlements, de la modification apportée au régime de retraite qui est décrite dans la présente formule. Je fais cette demande en ma qualité d'administrateur/de signataire dûment autorisé de l'administrateur (*ayer le terme qui ne s'applique pas*) de

_____ (le «régime de retraite»)
(Nom du régime de retraite)

dont le numéro d'enregistrement attribué par la Commission est _____

Sont annexés une copie certifiée conforme du document modificatif ainsi que les autres documents qui doivent être déposés aux termes de la Loi.

JE DÉCLARE CE QUI SUIT:

1. Les documents déposés en même temps que la présente formule comprennent une copie certifiée conforme du document modificatif, et ce document ainsi que tous les autres documents déposés en même temps que la présente demande sont conformes à la Loi et aux règlements.
2. Je comprends que la responsabilité de faire en sorte que les documents déposés en même temps que la présente formule soient conformes à la Loi et aux règlements incombe à l'administrateur. J'ai rempli cette obligation et je me suis conformé aux dispositions de la Loi et des règlements dans la présentation de la présente demande d'enregistrement.
3. Je reconnais que la présente déclaration s'étend à l'observation des lois sur les régimes de retraite de toute autorité législative désignée à l'intérieur du Canada, autre que l'Ontario, dans les cas où ces lois s'appliquent aux participants et anciens participants au régime de retraite.

Je déclare connaître les obligations que m'impose la Loi en ma qualité d'administrateur du régime de retraite et que les affirmations ci-dessus sont exactes, au mieux de ma connaissance et de ce que je tiens pour véridique.

FAIT À _____, le _____, 19_____.

Témoin

Signature de l'administrateur
ou du signataire autorisé

Nom du témoin

Nom de l'administrateur
ou du signataire autorisé
(en caractères d'imprimerie)

Adresse du témoin



RENONCIATION DU CONJOINT À UNE PRESTATION DE PENSION RÉVERSIBLE

Nom du conjoint
du participant/
de l'ancien participant

Je soussigné _____
suis le conjoint, au sens de la *Loi sur les régimes de retraite*, de

Nom du participant/
de l'ancien participant

_____ qui a droit à une prestation de retraite dans le cadre du

Nom du régime

_____ Je sais qu'en l'absence de renonciation, une pension payable à un ancien participant qui a un conjoint à la date où le premier versement est exigible doit être payée sous forme de pension réversible conformément à l'article 44 de la *Loi sur les régimes de retraite*.

Je comprends que je peux renoncer à tout droit à une pension de survivant d'au moins 60 pour cent de la prestation de retraite de mon conjoint au cas où il décéderait avant moi. Le fait que je renonce à mon droit permettra à mon conjoint de choisir une autre forme de pension qui ne me procurera aucune pension de survivant ou me procurera une pension inférieure au minimum de 60 pour cent.

Je renonce par les présentes à mon droit à une pension réversible prévu à l'article 44 de la *Loi sur les régimes de retraite*. La signature de mon conjoint, ci-dessous, constitue une reconnaissance du fait qu'il accepte ma renonciation.

Je comprends que nous pouvons révoquer la présente renonciation en tout temps avant le commencement du paiement de la pension de mon conjoint.

Cité ou ville,
province

Fait à _____, dans la province de _____

Jour, mois, année

le _____, 19 _____.

Signature du conjoint

Témoin à la signature
du conjoint

Signature du participant/
de l'ancien participant

Témoin à la
signature du participant/
de l'ancien participant

Avant de remplir la présente formule, chaque partie devrait envisager d'obtenir des conseils juridiques indépendants sur ses droits et l'effet de la renonciation.

Remarque: La présente renonciation n'est valide que si elle est remise à l'administrateur ou à la compagnie d'assurance, selon le cas, dans la période de douze mois qui précède immédiatement le commencement du paiement de la prestation de retraite, conformément au paragraphe 46(2) de la Loi sur les régimes de retraite.



Commission des
régimes de retraite
de l'Ontario

250 rue Yonge
29e étage
Toronto, (Ontario) M5B 2N7

Formule 4 - Loi sur les régimes de retraite
(Article 48 de la Loi)

RENONCIATION DU CONJOINT À UNE PRESTATION DE DÉCÈS ANTÉRIEURE À LA RETRAITE

Nom du participant ou
de l'ancien participant

ci-après appelé le «participant» ou l'«ancien participant», et

Nom du conjoint

ci-après appelé le «conjoint», certifions par les présentes que nous sommes des conjoints au sens de la *Loi sur les régimes de retraite*.

Nous comprenons qu'en l'absence de renonciation, si le participant ou l'ancien participant décède:

- (a) soit avant le paiement d'une pension différée;
- (b) soit, lorsqu'il garde son emploi après la date normale de retraite, avant le commencement du paiement des prestations de retraite,

la personne qui est son conjoint à la date de son décès a le droit de recevoir une prestation de décès antérieure à la retraite, sous forme de somme globale ou de rente viagère immédiate ou différée provenant du

Nom du régime
de retraite

à la date de décès du participant ou de l'ancien participant.

Nous comprenons également que nous pouvons renoncer au droit du conjoint de recevoir une prestation de décès antérieure à la retraite, auquel cas le paiement de cette prestation sera fait:

- (a) soit à un bénéficiaire désigné par le participant ou l'ancien participant;
- (b) soit au représentant successoral du participant ou de l'ancien participant à des fins de distribution comme partie de sa succession.

Nom du conjoint Nous renonçons par les présentes au droit de _____
de recevoir un paiement aux termes de l'article 48 de la *Loi sur les régimes de retraite*.

Cité ou ville,
province

Fait à _____ dans la province de _____

Jour, mois, année

le _____, 19 _____.

Signature du conjoint

Témoin à la signature
du conjoint

Signature du participant/
de l'ancien participant

Témoin à la signature du participant/
de l'ancien participant

Avant de remplir la présente formule, chaque partie devrait envisager d'obtenir des conseils juridiques indépendants sur ses droits et l'effet de la renonciation.



Commission des
régimes de retraite
de l'Ontario

250, rue Yonge
29^e étage
Toronto, (Ontario) M5B 2N7

Loi sur les régimes de retraite de 1990
Règlement 909

DÉCLARATION DE POLITIQUE DE PLACEMENT

(À présenter avec la déclaration des
politiques et des objectifs de placement)

Directives:

1. Cette déclaration doit être présentée pour l'enregistrement de chaque régime de retraite en vertu de la **Loi sur les régimes de retraite de 1990**. Elle est accompagnée d'une déclaration des politiques et des objectifs de placement, sauf pour les régimes exemptés en vertu de la directive 2.
2. Pour les régimes placés dans un contrat entièrement assuré ou dans un contrat de fonds d'administration générale de dépôts, régis par la **Loi sur les assurances** ou la **Loi sur les compagnies d'assurance canadiennes et britanniques (Canada)**, remplir les parties A et B. Conformément à l'article 80 des Règlements de la **Loi sur les régimes de retraite de 1990**, ces régimes de retraite sont dispensés de la production d'une déclaration des politiques et des objectifs de placement.
3. Pour tous les autres régimes de retraite, remplir les parties A et C.

PARTIE A

Numéro d'enregistrement de la Commission des régimes de retraite de l'Ontario

Nom de l'employeur/répondant

Nom du régime de retraite

PARTIE B

Je certifie que: a) je suis l'administrateur dûment nommé du régime de retraite ci-dessus;
b) ce régime est placé dans un contrat entièrement assuré ou dans un contrat de fonds d'administration générale de dépôts régis par la **Loi sur les assurances** ou la **Loi sur les compagnies d'assurance canadiennes et britanniques (Canada)**.

Nom (en caractères d'imprimerie)

Signature

Date

PARTIE C

Toutes les exigences de la loi énumérées dans cette partie doivent être reflétées dans la déclaration des politiques et des objectifs de placement et cochées sur cette déclaration. Les régimes de retraite entièrement placés dans les "fonds en commun" doivent cocher les lignes appropriées, et inscrire S/O dans celles qui correspondent aux postes sans objet. Cette déclaration et la déclaration des politiques et des objectifs de placement doivent être présentées à la Commission des régimes de retraite de l'Ontario.

<u>Exigences de la loi</u>	<u>Cocher (√)</u>	<u>Réservé à la Commission des régimes de retraite</u>
1. Type de régime (Règl. 67(3))	_____	
2. Nature des obligations (Règl. 67(3))	_____	
3. Taux de rendement prévu et politique relative à la composition de l'actif (Règl. 67(3)(b))	_____	
4. Diversification du portefeuille (Règl. 67(3)(a))	_____	
5. Catégories et sous-catégories de placements et de prêts (Règl. 67(3)(c))	_____	
6. Méthode d'évaluation des placements sur lesquels des opérations ne sont pas effectuées régulièrement (Règl. 67(3)(h))	_____	
7. Politique à suivre en situation de conflit d'intérêts (Règl. 67(3)(d))	_____	
8. Divulcation des conflits d'intérêts (Règl. 67(3)(e))	_____	
9. Prêt d'argent ou de valeurs mobilières (Règl. 67(3)(f))	_____	
10. Conservation ou délégation des droits de vote (Règl. 67(3)(g))	_____	

Je certifie que:

- (a) je suis l'Administrateur dûment nommé de ce régime
 (b) la déclaration des politiques et des objectifs de placement a été adoptée le

 (jour, mois, année)

- (c) au mieux de ma connaissance et de ce que je tiens pour véridique, la déclaration des politiques et des objectifs de placement présentée avec cette déclaration de politique de placement répond aux exigences de la *Loi sur les régimes de retraite de 1990* et de ses règlements d'application.

 Nom (en caractères l'imprimerie)

 Signature

 (jour, mois, année)

Announcements

New Chair of the Pension Commission Appointed

On March 24, 1994, the Minister of Finance announced the appointment of Eileen E. Gillese as Chair of the Pension Commission of Ontario for a three year term. Before her appointment as Chair, Professor Gillese served as Vice Chair of the Pension Commission from May 25, 1989. Her original appointment as a Commissioner was on January 1, 1988.



Eileen E. Gillese is the Associate Dean, Administration and a Professor of Law at the Faculty of Law, the University of Western Ontario. Her areas of academic specialization include pension law, administrative law and trusts. In addition to teaching, Professor Gillese has practised law on a full-time basis, both in Alberta and Ontario. Her academic background includes a Bachelors degree in Commerce and Business Administration from the University of Alberta in 1977, and undergraduate and graduate degrees from Oxford University in England in 1979 and 1980 respectively.

Professor Gillese is a member of the editorial board of the *Estates and Trusts Journal* and *Dominion Law Reports*. She has published widely in the areas of pension and trust law and is author of *Property Law*, 2nd edition, and coauthor of *Commentary and Cases on Trusts*, 4th edition.

In the April 19 announcement on the BBS, we reported incorrectly that the term of the appointments of the Chair and Vice Chair was for one year. The terms for the Chair and Vice Chair are for three years.

New Vice Chair Appointed to the Commission

Also on March 24, 1994 the Minister of Finance announced the appointment of Monica Townson as Vice Chair of the Pension Commission for a three year term.

Ms. Townson is an independent economic consultant and social policy analyst focussing mainly on issues relating to women and seniors. She is a graduate of the London School of Economics and has conducted studies for various task forces, royal commissions, federal, provincial and territorial governments, community organizations and trade unions. She has been a consultant to the United Nations Economic Commission for Europe on the economic role of women and has participated in international seminars as an expert on both pensions and parental leave. Her recent publications include a fact book on *The Economic Situation of Canada's Seniors*, published by the National Advisory Council on Aging. As a newspaper columnist, Ms. Townson writes on personal finance and retirement planning. Ms. Townson chaired the Ontario Fair Tax Commission which, in December 1993, reported to the Minister of Finance with recommendations on tax reform for the province of Ontario.



Ms. Townson was originally appointed to the Commission on May 1, 1986 for a three year term. Her appointment was renewed in 1989 and in 1992.

Kit Moore Appointed Commissioner



Kit Moore was appointed on June 8, 1994 to the Pension Commission of Ontario for a three year term. Mr. Moore recently retired from a national actuarial consulting firm where he was a vice-president and senior consulting actuary working with clients on matters related to pensions and group life and health programs. Mr. Moore is widely experienced in actuarial valuations, plan design, administration and management of fund assets. Prior to working in the consulting field, Mr. Moore worked for twenty years with a major Canadian insurance company from the outset of his career.

Mr. Moore studied at the University of Toronto graduating with an Honours B.A. degree in mathematics, majoring in actuarial science. He is a Fellow of the Society of Actuaries and a Fellow of the Canadian Institute of Actuaries (CIA). In 1984-85 he was president of the CIA and from 1987 to 1990 he served on the Board of Governors of the Society of Actuaries. Mr. Moore has made a significant contribution to the development of improved professional standards for North American actuaries and in increasing public awareness of those standards.

David R. Brown Steps Down from the Commission on August 31, 1994



Following many years of distinguished service as a Commissioner of the Pension Commission, Mr. Brown's term expires on August 31, 1994. Mr. Brown first served on the Commission from 1977 to 1983. After a five year hiatus, Mr. Brown was appointed on September 1, 1988 and has served continuously from that date.

Mr. Brown was born and educated in Winnipeg graduating in 1956 from the University of Manitoba with a Bachelor of Commerce degree. In 1960 he qualified as a Fellow of the Society of Actuaries and joined a firm of consulting actuaries in Toronto where he has worked throughout his career with major corporate and public sector clientele nationally.

For some time, Mr. Brown has been a managing partner of the firm.

Several achievements should be noted at this time. Mr. Brown was actively involved in the establishment of the Pension Benefits Guarantee Fund in 1980, and participated in early consultations with CAPSA members which led to a 1982 "consensus" document on pension reform. Most recently, he was a key participant in the redrafting of the solvency rules which are now contained in Regulation 909. Mr. Brown has contributed with vigour to pension policy and regulatory matters and that effort has strengthened significantly the pension regulatory system in Ontario.

PCO Task Force to Conduct a Review of PBGF Assessments from 1988 through 1992

The PBGF was established in 1980 to protect pension benefit entitlements of the members of defined benefit pension plans who are employed in Ontario, and claims can be made in cases where the employer is insolvent and pension plan assets are insufficient to cover the plan liabilities. In 1987, the regulation was amended requiring that the PBGF assessment be determined on the funded status of the plan on a solvency basis.

The PCO will conduct a review to determine whether PBGF assessments were calculated in accordance with Regulation 708 under the *PBA, 1987* for the period between 1988 through 1992. In 1992 there was a solvency regulation change which has a retrospective effect for certain plan regarding required contributions. But except for qualifying plans, the regulation change did not affect the required PBGF assessments prior to 1993.

The task force will review the solvency liabilities used to determine the PBGF assessment in accordance with Regulation 708 for that time period. Where the plan's actuary is unable to demonstrate that the PBGF assessment was determined in accordance with the old regulation, the assessment must be redetermined and the employer will be required to make up any difference owed to the PBGF.

Deadlines for the Submission of Applications to the Commission

Applicants filing submissions for consideration at future Commission meetings should be aware that deadlines for submitting applications to staff have been established. The deadlines ensure that staff and Commission members have sufficient time to review applications prior to the meetings.

Although applications will be dealt with as quickly as possible by staff after receipt, it is not possible to ensure that applications will be considered by the Commission if they do not conform to the deadlines indicated below. Applicants should also be aware that delays will likely result if applications are not complete when reviewed by staff. (This timetable does not apply to certain applications, for instance, making an application to the Commission to have the Guarantee Fund declared to apply to a pension plan.)

Commission Meeting Dates

Submission Deadlines

1994

Thursday, November 17, 1994
Thursday, December 15, 1994

Wednesday, August 24, 1994
Wednesday, September 21, 1994

(The August 25, 1994 meeting has been cancelled)

1995

Thursday, January 26, 1995
Thursday, February 23, 1995
Thursday, March 30, 1995
Thursday, April 27, 1995
Thursday, May 25, 1995
Thursday, June 29, 1995
Thursday, July 27, 1995
Thursday, September 28, 1995
Thursday, October 26, 1995
Thursday, November 23, 1995
Thursday, December 14, 1995

Wednesday, October 26, 1994
Wednesday, November 23, 1994
Wednesday, December 28, 1994
Wednesday, January 25, 1995
Wednesday, February 22, 1995
Wednesday, March 29, 1995
Wednesday, April 26, 1995
Wednesday, June 28, 1995
Wednesday, July 26, 1995
Wednesday, August 23, 1995
Wednesday, September 13, 1995

(The August 31, 1995 meeting has been cancelled)

BBS News

In July, the PCO will upload all decisions of the Commission since 1988 as well as the content of this issue of the *PCO Bulletin*. Furthermore, as a courtesy to pension practitioners and members of the Canadian Association of Pension Supervisory Authorities or CAPSA, the PCO will upload lists of vendors of LIFs and LIRAs in jurisdictions that have provided the information by the upload date.

We will also make our public brochures available in English and French namely, *Understanding Your Pension Plan - A Guide for Members of Employer Sponsored Pension Plans* and *When Your Pension Plan Winds Up - What It Means to Members*. Although their distribution to members is encouraged wherever possible, subscribers are asked to obtain written permission to reprint in whole, or, to give credit to the PCO for use of parts of these brochures. A "permission to reprint" form is included at the end of the brochure text and should be directed to the Director of the Policy and Research Branch.

Owing to the level of interest in the PCO's Conference, and recent developments which have added value to the service, the *BBS Information Package* will be distributed in the next issue of the *PCO Bulletin* to be published in the fall.

PCO Forms and Publications to be Distributed from Oshawa on and after September 15, 1994

For details on this new arrangement and how you can obtain copies of PCO forms and publications, please refer to the article on page 74. BBS subscribers can retrieve from the PCO conference, the electronic versions of prescribed forms 1, 1.1., 3, 4, the Investment Policy Return (form) and other forms also described in the article.

PCO Telecommunications Service Interrupted on June 28

Voice-net Ontario advised PCO staff that telecommunications service was interrupted on or about June 28. The problem was defective voice-mail diskettes causing unheard recorded messages to be automatically deleted from the system and to be irretrievable. We sincerely regret any inconvenience this may have caused.

If you have reason to suspect that your unanswered voice-mail message was among those deleted, please call again!

Couriers to Deliver Completed AIRs to Oshawa - Not the PCO

The PCO pre-prints all Annual Information Returns and Schedules and mails these to Administrators for completion and filing by the applicable deadline. The return envelope included in this mailing is addressed to a Ministry of Finance postal box in Oshawa.

Some administrators, facing a deadline, have been delivering the completed AIR, schedules and cheques to the PCO at 250 Yonge Street which is incorrect.

Administrators delivering the completed AIR package must address the package to:

**Ministry of Finance
Taxation Data Centre
33 King Street West
Oshawa, ON L1H 8H5**

Couriers are to leave their packages with the security desk on the main floor.

Message of the Chair

Professor Eileen E. Gillese

Introduction

Since assuming the position of Chair of the Pension Commission of Ontario, I have frequently heard the following kind of question, "I understand what the **staff** of the Commission does, but what does the Commission itself do?" I will begin these remarks by addressing that question, as some understanding of the Commission's role is necessary to appreciate the goals that the Commission will strive to meet during my term as Chair.

The Role of the Commission

The Commission is composed of nine members appointed by Order-in-Council. All members of the Commission, including the current Chair, serve on a part-time basis.

Section 96 of the *Pension Benefits Act* ("the Act") sets out the duties of the Commission to administer the Act and regulations, promote the establishment of pension plans and advise and make recommendations to the Minister. In addition, throughout the Act, the Commission is given various specific responsibilities including deciding on the disposition of applications for refunds (s. 63) and surplus (ss. 78, 79), handling of administration and declarations under the Pension Benefits Guarantee Fund (ss. 82, 83) and appeals of decisions of the Superintendent pursuant to section 89.

A closer examination of these provisions in the legislation reveals that the Commission is meant to perform three types of functions: policy making, quasi-judicial decision making and leadership. The policy making function flows from the responsibility placed upon the Commission under section 96 to "administer this Act and regulations". In order to "administer" the Act and regulations, the Commission believes that plan sponsors and administrators need to know what their obligations are under the Act and how those obligations can be fulfilled and, plan members, their representatives and plan beneficiaries need to know what their rights are under pension law and how those rights can be exercised. The establishment and communication of policies is seen to be an effective mechanism for assisting administrators in this regard.

The phrase "quasi-judicial decision making" is made up of two components: decision making and quasi-judicial. The decision making component refers to the various decisions that the Commission is called upon to make that affect individuals such as plan members, sponsors and the Superintendent. The quasi-judicial component refers to the requirements that the Act and the law places upon the processes followed by the Commission when making such decisions. The phrase, read as a whole, means that when making these kinds of decisions, the Commission is bound to do so in a way that is fair to all concerned but at the same time best serves the purposes of the legislation.

The obligation created under section 96 to "advise the Minister" and "to make recommendations to the Minister" is somewhat vague. In my view, it is to be read in the context of clause 96(b) which places on the Commission the duty to promote the establishment and improvement of pension plans throughout Ontario. When clauses 96(b), (c) and (d) are read together, it appears to call the Commission to exercise leadership in the area of pensions broadly. That is, it places some obligation on the Commission to bring to the attention of the Minister and the public the great need that exists for pensions. Without private pensions, the future of many Ontario residents is bleak indeed. The social, political and economic ramifications of having seniors in our province living below the poverty line are grim. Bringing this to the attention of the public generally is, however, only a first step. For the Commission to successfully meet the obligations placed on it by section 96, it must go further and suggest ways in which expanded coverage can be realized. That said, the Commission recognizes the constraints created by the Act in crafting new and innovative solutions to the challenge of expanding coverage.

The Past Six Years

Before turning to the matter of the goals of the Commission for the next two to three years, it may be helpful to briefly review what has transpired since the new Act was passed in 1987. The accomplishments on the staff side of the Commission in that time period can be grouped under the headings of accountability and communication.

The strides forward in the area of accountability include essentially eliminating the backlog; setting and meeting targets for the processing of documents, requests and applications; re-organizing the staff to make a single officer responsible for designated plans so that all players in the pension industry have a single human being to whom they can turn, at the Commission, for information; and, taking steps, through training and improved communication flows, to ensure that the information given out is reliable and consistent.

There have been highly visible improvements made by the staff in the area of communication. Calling to mind but a few items will demonstrate this: establishment of the *PCO Bulletin*, going on-line with the BBS, and, creating advisory boards comprised of industry representatives so that there is a clear communication link between all segments of the pension industry and the staff on the vital matter of policy formulation.

In a paper written about the Commission, it was remarked that prior to 1987, the Commission was "the tribunal that never was". The remark was made because it was largely the new Act in 1987 which gave the Commission its role as a quasi-judicial decision maker. As a consequence, the Commission has divided its time over the past six years between its long-standing policy making role and learning to be a fair and impartial decision maker in areas as diverse as surplus applications under the new negotiated surplus sharing regulations, hearing appeals from Superintendent decisions and determining when partial wind up orders should issue. We have decided literally hundreds of matters in the past six years.

We have produced pre-hearing conference procedures to assist all those preparing for non section 89 hearings before the Commission and, through those procedures have, I believe, cut down the frustrations associated with appearing before the Commission.

Goals

The obvious question is: where does the Commission go from here? The three primary functions of the Commission were described above; it will come as no surprise that the goals the Commission has for the near future relate to the three functions.

In relation to policy making, the Commission intends to continue down the path it is on in that it will continue to set and communicate policies in writing which make compliance easier but which do not derogate from the dictates of the legislation. We will continue to obtain industry input through use of the advisory committees. To the extent possible, we will develop policy that is responsive to industry need and that minimizes unnecessary regulatory and administrative burdens.

One area that will have particular attention paid to it is the area of non-compliance. The Superintendent and his staff are putting in place the systems necessary to detect anyone who is in breach of the Act or regulations; investigations will be undertaken and appropriate steps taken. The Commission will have a role to play in developing the policies on how to treat offenders and, of course, it will hear appeals from actions of the Superintendent.

The quasi-judicial decision making function will be a particular focus for me. I am the first Chair to have legal training since the new Act was passed and I feel a special obligation to "demystify" the processes and procedures associated with the Commission decision making functions. I hope that by the end of my tenure as Chair, there will be standardized processes followed by the Commission in the exercise of each and every one of its

decision making functions. Moreover, I will strive to see that published procedures and information sheets are created and made available for the guidance of all those affected by Commission decisions. Finally, I intend to ensure that the processes and procedures adopted, while complying with the principles of natural justice, are the least cumbersome and most expeditious possible.

These goals alone will take up much of the energies of the Commission but I would be remiss if I did not publicly state that it is the goal of the Commission to begin the process of leadership. That is, we intend to take steps to refocus attention on the need for retirement planning writ large and to begin to ask the questions of how we can best enable Ontario residents to enjoy an adequate income in their retirement years.

Conclusion

I consider it a privilege to have been named Chair of the Pension Commission of Ontario and, particularly, at this time. The entire pension industry -- including the regulator! -- has been on a steep learning curve since the new Act was passed in 1987. Like any period of rapid change, this has meant that we all faced a great many challenges and frustrations. I believe that it is accurate to say that, at times, most of us felt overwhelmed by the work associated with the changes and all the new learning we had to do.

Thankfully, many of the frustrations have been, or are being dealt with, which frees us to pay attention to the challenges, the biggest of which is expansion and improvement of pension coverage. There is a need for enhanced retirement planning/pension coverage. There is an abundance of ability in all segments of the pension industry. There is evidence of a shared view that the industry and the regulators can make the Act work. The sum of need plus ability plus attitude makes me genuinely optimistic that, over the balance of my term, headway will be made in meeting that challenge.

Administrative Practices



Pension
Commission
of Ontario

Commission des
régimes de retraite
de l'Ontario

SECTION: Surplus

INDEX NO.: S900-501

TITLE: Surplus Distribution to an Employer
- PBA, s. 78 and 79 and Reg. 909, s. 8

APPROVED BY: The Commission

PUBLISHED BBS: June 28, 1994

PUBLISHED BULLETIN: Summer 1994 Bulletin 5/2 p. 32

EFFECTIVE DATE: June 23, 1994

REVISED DATE:

PART I

Distribution of Surplus to an Employer on Full Wind Up

PART II

Distribution of Surplus to an Employer on Partial Wind Up

Subsection 78(1) of the Pension Benefits Act, R.S.O. 1990, c.P.8 (the "Act"), provides that surplus may not be paid to an employer unless the Commission consents to the payment. The Commission shall not consent to an application to distribute surplus to an employer until specific requirements and conditions have been satisfied. Statements and documents supporting the applicant's assertion that the requirements and conditions have been satisfied should be included in the Application to the Commission.

Part I of this Administrative Practice identifies the procedure for bringing an Application to the Commission pursuant to section 78 of the Act and subsections 8(1) and 8(2) of Regulation 909 (the "Regulation") on a full wind up.

Part II of this Administrative Practice identifies the modifications to Part I which apply to an Application made to the Commission pursuant to section 78 of the Act and subsections 8(1) and 8(2) of the Regulation on a partial wind up.

It is the responsibility of the applicant to satisfy the Commission that the Application meets the requirements of the Act, the Regulation and Commission policies, procedures and administrative practices respecting such applications. It is also the applicant's responsibility to consider whether plan specific circumstances warrant the inclusion of additional information or documentation supporting the Application.

While every effort has been made to make this practice as complete as possible, the Commission is not bound by this practice. Further, the Commission is not bound by information or advice given to the applicant by staff of the Commission or the Superintendent in regards to an Application.

Relevant Published Policies, Procedures and Administrative Practices

Applicants are advised that the following policies, procedures and administrative practices contain information relevant to an Application for the Commission's consent to a payment of surplus to an employer on full or partial wind up. These are available on the Bulletin Board System (the BBS) and have appeared in the *PCO Bulletin*, a publication of the Pension Commission of Ontario. They are listed by subject, BBS index number and publication date:

- 1) Surplus Distribution to Beneficiaries as cash on wind up; S900-300; August, 1993
- 2) Surplus Attributable to Employer and Employee Contributions; S900-800; August, 1993
- 3) Allocation of Surplus Distributed to Members and Former Members on Wind Up; S900-900; Spring, 1994
- 4) Members and Former Members on Wind up - Applications before the Commission - decision-making process; S900-900; Spring, 1994
- 5) Pre-hearing Conference Procedures; P300-700; August, 1993
- 6) Role of the Presiding Officer at the Pre-hearing Conference; P300-705; Spring, 1994
- 7) Submission Deadlines for PCO Monthly Meetings; P300-800; Dec '93/Jan '94
- 8) PCO Compliance Assistance Guideline No. 4 - Revised December, 1990; W100-100; December, 1990

An applicant who is eligible to file an Application pursuant to subsection 8(2) of the Regulation (the "grandfathering" provision), should also refer to the following:

- 9) Court Applications - Surplus Entitlement in Wound Up Plans; S900-250; October, 1992
- 10) Procedures for Applications Pursuant to subsection 7a(2) O. Reg. 743/91 [grandfathering provision]; S900-550; October, 1992
- 11) Court and PCO Procedure for Applications under Regulation 7a(2)(c) O. Reg. 708/87; S900-600; November, 1991

This administrative practice replaces Distribution to an Employer on Wind up, PBA s. 78 and 79, O.Reg. 909 7a(1)(b) - (BBS No. S900-500)

The content of this Administrative Practice is set out as follows:

PART I Distribution of Surplus to an Employer on Full Wind Up

General Principles	page 3 of this practice
The Notice of Application	page 4 of this practice
Written Agreement	page 6 of this practice
The Application	page 7 of this practice
Filing the Application	page 8 of this practice

PART II Distribution of Surplus to an Employer on Partial Wind Up

Modifications Which Apply
to Partial Wind Ups page 9 of this practice

SCHEDULE 1

Application Format and
Explanatory Notes page 10 of this practice

PART I

DISTRIBUTION OF SURPLUS TO AN EMPLOYER ON FULL WIND UP

General Principles

1. Where payment of surplus to the employer is sought on a wind up, section 78 of the Act requires that no payment may be made without the Commission's prior consent. Before such consent may be given, the requirements of subsection 78(2) of the Act concerning notice and disclosure of plan provisions with respect to the payment of surplus on wind up must be met. In addition, the requirements of subsection 79(3) must be satisfied.
2. Generally, an employer winding up a pension plan will file an Application for the Commission's consent to payment of surplus to the employer:
 - (a) after the Superintendent of Pensions has approved payment of basic benefits out of the plan;
 - (b) if the plan documents permit surplus reversion to the employer on the wind up of the pension plan;
 - (c) after the employer has submitted a copy of the Notice of Application to the Superintendent;
 - (d) after the employer has transmitted the Notice of Application and, where applicable, has provided a copy of the proposed surplus distribution agreement to those persons who are entitled to receive it, and
 - (e) after the employer has obtained the written agreements as required by clause 8(1)(b) of the Regulation, or
 - (f) if pursuant to subsection 8(2) of the Regulation, the applicant has obtained or is seeking to obtain a court order with respect to surplus entitlement and distribution.
3. Compliance with the requirements of the Act, the Regulation and conditions identified in any Commission policy, procedure and administrative practice which affects the Application is the responsibility of the applicant.
4. Applicants are responsible for the accuracy and completeness of the information contained in the Application and any supporting documents.

The Notice of Application

Content

5. The Notice of Application required by subsection 78(2) of the Act must include the information prescribed under subsection 28(5) of the Regulation.
6. With respect to clause 28(5)(c) of the Regulation (i.e., surplus attributable to employee and employer contributions), the methodology used to determine the surplus attributable to employee and employer contributions must be consistent with the conditions under BBS Index No. S900-800.
7. With respect to clause 28(5)(e) of the Regulation (i.e., the statement that submission may be made in writing to the Commission within 30 days of receipt of the notice), the Notice must also state that:
 - (a) written submissions are to be directed to the attention of the Registrar; and
 - (b) information related to the date on which the Application will be considered by the Commission may be obtained from the plan administrator.
8. With respect to clause 28(5)(f) of the Regulation (i.e., contractual authority for surplus revision), there must be complete disclosure of all provisions of the plan and prior versions of the plan which may be relevant to any determination of surplus entitlement, including provisions contained in all current and previous plan texts and trust agreements, insurance contracts, employee booklets and notices, collective bargaining agreements and any other relevant documents.

The actual wording of plan provisions which may be relevant to surplus entitlement and the authority to make plan amendments must be cited in the Notice of Application.

Where the plan documents do not contain explicit provisions with respect to surplus entitlement, this fact must also be disclosed in the Notice of Application.

If an Application requires a court order pursuant to subsection 8(2) of the Regulation, the applicant should refer to the procedure under BBS Index No. S900-600.

9. With respect to clause 28(5)(g) of the Regulation (i.e., notice concerning access to copies of the wind up report), if the office or location where the members were employed is closed, the employer must make alternative arrangements close to the location(s) where business was conducted for members to review the wind up report filed with the Commission in support of the surplus request.
10. The Commission may require the Notice of Application to be re-issued if the Commission determines that the requirements of the Act and the Regulation have not been satisfied, conditions identified in any Commission policy, procedure and administrative practice affecting Applications have not been met, or there has not been complete disclosure of all relevant information including the proposed surplus distribution agreement.
11. Subsection 28(5.1) of the Regulation requires the employer to submit a copy of the Notice of Application to the Superintendent before it is transmitted.

The Notice of Application should be submitted to the Superintendent by sending one (1) copy to:

Pension Commission of Ontario
250 Yonge Street, 29th Floor
Toronto, ON M5B 2N7

Attention: Superintendent of Pensions

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12. With respect to paragraph 7 above and subparagraph 27(j) below, the Registrar will forward a copy of any written representations received by the Registrar to the applicant.

Transmitting the Notice of Application

13. The employer is required to transmit the Notice of Application to all parties listed in subsection 78(2) of the Act.
14. Transmittal must be by personal delivery or first class mail in accordance with subsection 112(1) of the Act.
15. Where the plan wind up results from an event affecting the employment of the members, such as in the case of a plant closure, all members participating in the plan on or after the date notice of the event is given must be included as members for purposes of the wind up, including the surplus distribution. This applies even if a member terminates after the notice date but prior to the event actually occurring. Please also refer to "PCO Compliance Assistance Guideline No. 4, Revised Dec. 1990" (BBS Index No. W100-100, published in the December, 1990 *PCO Bulletin*).
16. For the purposes of subsection 78(2)(a) of the Act, the Commission considers the following persons to be "former members" of the pension plan:
- (a) Former vested plan members who terminated employment within six years before the effective date of wind up, and who commuted or transferred their pension benefit out of the plan.
 - (b) Former non-vested plan members who terminated employment within six years before the effective date of wind up.
 - (c) Former plan members who had their pension benefits transferred to another pension plan sponsored by the same employer or another employer within six years before the effective date of wind up.
 - (d) Any plan beneficiary for whom the plan administrator has purchased a pension, deferred pension, or ancillary benefit.

Accordingly, the Commission requires the employer to transmit the Notice of the Application to those persons by personal delivery or first class mail. The Commission does not require the employer to transmit a copy of the proposed surplus distribution agreement to those persons. The Superintendent may authorize delivery by public advertisement or otherwise in accordance with subsection 112(3) of the Act if satisfied that it is not reasonable to give individual notice to any or all of these groups or individuals.

When considering the Application, the Commission may determine that any person, as described in subparagraph 16(d) above, for whom the plan administrator has purchased a pension, deferred pension, or ancillary benefit shortly before the date of wind up may be entitled to receive the Notice of Application by personal delivery or first class mail. In this circumstance, the Commission may require the employer to provide a copy of the proposed surplus agreement to those persons by personal delivery or first class mail and to obtain their written agreement.

Public Advertisement

17. Where an applicant requests the Superintendent's authorization to deliver the Notice of Application by public advertisement, the information provided in the draft public advertisement submitted to the Superintendent with the request must clearly indicate the following:
- (a) to whom the notice is addressed (i.e., former members or beneficiaries of the wound up plan or any applicable predecessor plan(s)),

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- (b) the reason that these persons are being contacted (i.e. wind up of the pension plan in a surplus position and the surplus application), and
 - (c) where the details of the surplus application will be made available.

Written Agreement (Applications pursuant to clause 8(1)(b) of the Regulation)

Content

18. When considering the Application, the Commission must be satisfied that:
 - (a) prior to agreeing in writing, the affected members, former members and other persons have received, in addition to the Notice of Application, a copy of the proposed surplus distribution agreement with respect to all persons who are to participate in the surplus allocation, and
 - (b) the required number of written agreements has been obtained by the applicant.
19. The written agreement must provide for:
 - (a) the name of the individual;
 - (b) the signature of the individual;
 - (c) the name of a witness; and,
 - (d) the signature of the witness.

Transmitting the Written Agreement

20. In order to obtain the written agreements required under clause 8(1)(b) of the Regulation, a copy of the proposed surplus distribution agreement must be given to all persons listed in subsection 78(2) of the Act. In accordance with subsection 112(1) of the Act, transmittal must be by personal delivery or first class mail.

A copy of the proposed surplus distribution agreement should be transmitted with the Notice of Application.

Written Agreements

21. In order to satisfy subclause 8(1)(b)(iii) of the Regulation, an applicant is required to obtain the written agreement of two-thirds of the aggregate of those former members and other persons who are entitled to payments under the pension plan on the date of wind up. This requirement is subject to the Commission's discretion following a review of the circumstances which are applicable to each individual Application.
22. The appropriate bargaining agent for the purposes of subclause 8(1)(b)(ii) of the Regulation, is the collective bargaining agent or agents that represent the members of the plan at the date the written agreement is signed.
23. A collective bargaining agent may enter into a written agreement on behalf of those plan members represented by the agent only. Therefore, if a pension plan involves more than one bargaining agent, the written agreement of each bargaining agent is required.
24. If a pension plan is provided for both unionized and non-unionized members, the written agreement of the collective bargaining agent(s) as well as two-thirds of those members not represented by the bargaining agent(s) must be obtained.

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25. The written agreement of a collective bargaining agent that represents the members of the pension plan must be obtained, even where the collective bargaining agent does not bargain the pension plan.

The Application

26. The format and content of the Application should be consistent with Schedule 1 under this practice.
27. All material required by the Act and Regulation must be attached to the Application, including:
- (a) A list, by class, of the names of members, former members or other persons who are affected by the wind up.
 - (b) Pursuant to subsection 28(6) of the Regulation, a certified copy of the notice referred to in subsection 28(5).
 - (c) A statement that the employer has complied with subsection 78(2) of the Act.
 - (d) A list, by class, of the names of members, former members or any other persons who received the Notice of Application, the last date Notice was transmitted and the form of delivery of the Notice.
 - (e) Copies of all provisions from the plan documents, trust agreements, insurance contracts, employee booklets and notices, and any other documents respecting surplus entitlement (in chronological order and clearly labelled) which may be relevant.
 - (f) Copies of the title page and the balance sheet (or any updated balance sheet) of the wind up report as of the effective date of the wind up giving rise to the Application and the actuary's certification from the wind up report or any supplemental wind up report.

A supplement to a wind up report will be required if it is discovered that the initial report does not reflect the surplus distribution proposals outlined in the Application.

- (g) Information required to be submitted to PCO staff in accordance with BBS Index No. S900-800.
- (h) The Superintendent's approval of the payment of basic benefits based on the wind up report and any supplementary report.
- (i) A copy of the most recent collective bargaining agreement if the pension plan is negotiated and the agreement has not been filed in accordance with subsection 12(3) of the Act.
- (j) Any written representations objecting to the Application received by the applicant directly or through the Registrar, as well as any response(s) of the Applicant.
- (k) Any submissions which may be relevant to the Application.

Where other materials or information which may be relevant are discovered after the Application has been filed, such materials or information must be filed as an addendum to the initial Application (note paragraphs 29 and 36 below).

- (l) Where the Application is pursuant to clause 8(1)(b) of the Regulation:
 - i) a copy of the proposed surplus distribution agreement;

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- ii) a list, by class, of the names of members, former members or any other persons who received a copy of the proposed surplus distribution agreement, the last date the agreement was transmitted and the form of delivery of the agreement;
 - iii) a sample copy of the written agreement obtained from a plan member, former member, or other person with respect to the proposed surplus distribution agreement, and
 - iv) copies of the written agreement(s) between the employer and any collective bargaining agent(s) that pertain to the surplus distribution agreement.
- (m) Where the Application is to be brought pursuant to subsection 8(2) of the Regulation, the applicant should refer to BBS Index No. S900-600. If the applicant has already obtained a court order concerning entitlement to surplus and distribution of funds from surplus, a copy of the court order must be attached to the Application.

Filing the Application

28. A complete Application should be filed with the Commission at least ninety (90) days prior to the date of the Commission meeting at which the applicant wishes to have the Application considered.

Submission of the Application, including attachments, on stock which does not exceed 8-1/2" x 11" is preferred. Photo-reduction of relevant materials which are on larger stock to the more manageable 8-1/2" x 11" size is suggested (subject to legibility).

29. The Application is filed with the Commission by sending 25 copies to:

The Registrar
Pension Commission of Ontario
250 Yonge Street, 29th Floor
Toronto, ON M5B 2N7

Twenty-five (25) copies of any information or materials which are supplemental to the initial filing and which are required in order to complete the Application should be filed with the Registrar.

30. The Registrar will give the applicant acknowledgment of receipt of the Application.
31. The applicant and anyone who made representation pursuant to subsection 78(3) of the Act will be advised of the date on which the Commission will consider the Application.
32. The Commission will not consider the Application unless the Superintendent has approved the payment of basic benefits on the basis of the wind up report.
33. If the administrator is a person other than the employer, the employer must forward a copy of the Application to the plan administrator.
34. For Applications pursuant to clause 8(1)(b) of the Regulation, copies of all the signed written agreements obtained from plan members, former members, and other persons with respect to the disclosed surplus distribution agreement must be filed with the Registrar. As well, copies of the signed written agreements must be provided to the Pension Officer who is responsible for the pension plan.

Review Process

35. PCO staff will review the Application. If staff believe that the application is incomplete (i.e., information or materials are missing) staff will advise the applicant.

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36. If the Application is found to be incomplete, the ninety (90) day period for processing an Application will not run from the date of filing. In such cases, the ninety (90) day period will begin to run once a complete Application has been filed.
 37. Where applicable, the applicant or anyone who made representation pursuant to subsection 78(3) of the Act will be advised of the revised date on which the Commission will consider the Application.
 38. The Registrar will provide a copy of the submissions of the Superintendent and/or staff concerning the Application to the applicant approximately fourteen (14) days prior to the Commission meeting at which the Application is to be considered.

At the same time, the Registrar will provide a copy of the submissions of the Superintendent and/or staff to those persons who made representation pursuant to section 78(3) of the Act.

39. Applicants and other persons who receive a copy of the submissions of the Superintendent and/or staff must file a response with the Registrar at least nine (9) days prior to the Commission meeting at which the Application is to be heard.

Twenty-five (25) copies of the response and any supporting materials should be submitted to the Registrar.

Copies of any response must also be provided to the other parties at least nine (9) days prior to the Commission meeting.

Pre-hearings and Commission Decisions

40. Applicants should be aware of the decision-making process outlined in BBS Index No. P300-100. An Application may be set over for a pre-hearing conference as outlined in BBS Index No. P300-700.
41. After the Commission has made its decision, the Registrar will communicate the Commission's decision in accordance with subsection 79(5) of the Act.
42. Any party to a proceeding before the Commission under section 79 of the Act may appeal to Divisional Court from the Commission's decision pursuant to section 91 of the Act.

PART II

DISTRIBUTION OF SURPLUS TO AN EMPLOYER ON PARTIAL WIND UP

Part I procedures will apply with respect to partial wind ups subject to the following:

1. For the purpose of an Application under Part II of this Administrative Practice, any reference to "full wind up" or "wind up" under Part I of this paper should be read as "partial wind up".
2. Those persons listed in subsection 78(2) of the Act who are entitled to receive the Notice of Application and a copy of the proposed surplus distribution agreement by personal delivery or first class mail in accordance with subsection 112(1) of the Act are as follows;
 - (a) all persons who are directly affected by the partial wind up (i.e., are entitled to receive payment from the pension plan as a result of the event which gave rise to the partial wind up),
 - (b) all persons who ceased to be employed as a result of the event which gave rise to the partial wind up, and

- (c) each collective bargaining agent that represents members under the plan at the date of partial wind up.
3. All persons who are not directly affected by the partial wind up are entitled to receive only the Notice of Application by personal delivery or first class mail. However, subject to obtaining the Superintendent's authorization under subsection 112(3) of the Act, the employer may choose to provide Notice by public advertisement or otherwise.
4. For the purposes of obtaining written agreement in accordance with subclause 8(1)(b)(ii) of the Regulation, the appropriate collective bargaining agent is the collective bargaining agent which represents the members under the plan at the date of partial wind up who are directly affected by the partial wind up.

The written agreement of a collective bargaining agent that is a collective bargaining agent at the date of partial wind up for those members who are not affected by the partial wind up is not required to be obtained.

5. Where written agreement is required pursuant to subclause 8(1)(b)(ii) of the Regulation, and there is no "collective bargaining agent" which represents the members who are directly affected by the partial wind up, written agreement must be obtained from at least two-thirds of the members who are directly affected by the partial wind up.
6. For the purposes of subclause 8(1)(b)(iii) of the Regulation, the written agreement of at least two-thirds of the aggregate of the former members and other persons who are directly affected by the partial wind up must be obtained. This requirement is subject to the Commission's discretion following a review of the circumstances which are applicable to each individual Application.

SCHEDULE 1

FORMAT AND CONTENT OF THE APPLICATION TO THE COMMISSION FOR CONSENT TO THE REFUND OF SURPLUS TO AN EMPLOYER

- Date:** *Enter the date of the application.*
- Employer:** *Provide the full legal name of the employer making the application.*
- Pension Plan:** *Provide the full legal name of the pension plan and the provincial registration number.*
- Prepared By:** *Provide the name and title of the corporate officer authorized to act on behalf of the employer in respect of the application. (Unless otherwise indicated in the application, all communication from the Commission will be directed to the person who files the application.)*
- Nature of the Application:**

Provide a full description of what is being asked of the Commission with reference to the specific section(s) of the Act and Regulations pursuant to which the application is being made. For example:

Application for the Pension Commission's consent pursuant to subsection 78(1) of the Pension Benefits Act, R.S.O. 1990, c.P.8, as amended, and clause 8(1)(b) of Regulation 909, R.R.O. 1990, as amended, to a payment of surplus to (provide full legal name of the company) in the amount of \$ (show the amount as of the effective date of wind up) as at (show the effective date of wind up) plus investment earnings thereon to the date of payment and (add reference to any other adjustment that will be made in the proposed refund to the employer such as expenses).

This application is made pursuant to a surplus distribution agreement whereby (x) per cent of the surplus as of the effective date of wind up will be distributed to the members, former members and other persons entitled to benefits as of the effective date of wind up in the form of indexed benefits.

Appropriate modifications will be required with respect to applications which are pursuant to subsection 8(2) of the Regulation where the applicant has applied or, will apply, to court for an order under clause 7a(2)(c) of Ontario Regulation 708/87 as that section read prior to December 18, 1991.

Actuary/Counsel:

This section should provide the name of these persons connected to the application, either as agents of the employer making the application, or those acting on behalf of the members, former members, etc. If there is no such individual, please indicate "None".

Actuary for the Applicant (and name of firm):

Counsel for the Applicant (and name of firm):

Counsel for the Members/former members/union/etc.:

Actuary for the Members/former members/union/etc.:

Collective Bargaining Agent:

Provide the name of the Collective Bargaining Agent(s) who represent any members or former members of the pension plan.

Background:

Provide a brief summary of the background of the plan leading up to the application including;

- *the effective date of the plan,*
- *the classes of members covered by the plan,*
- *the basic benefit structure (e.g. "non-contributory", flat benefit plan"),*
- *a brief chronology of the plan and any predecessor plans including reference to plan mergers/splits or conversions that may have occurred,*
- *the relevant corporate history including the background to any changes in the name of the employer associated with the pension plan,*
- *the effective date and reasons for the wind up of the pension plan, and*
- *any information which will assist in understanding the application.*

Subsection 78(2) of the Act - Notice Requirements

In the following subsections, the applicant should satisfy the Commission that the notice requirements of the Act and Regulations have been satisfied.

(a) Subsections 28(5) and 28(5.1) of the Regulation:

Provide information indicating how the applicant has complied with:

- Subsection 28(5) and any related Pension Commission policies, procedures or administrative practices setting out the minimum contents to be included in the Notice of Application required to be issued under subsection 78(2) of the Act.
- Subsection 28(5.1) which requires that a copy of the Notice of Application be filed with the Superintendent prior to transmittal to the members, former members and other persons.

(b) Subsection 28(6) of the Regulation:

Provide information demonstrating compliance with subsection 28(6) of the Regulation which requires that the application be accompanied by a certified copy of the Notice of Application, a statement that subsection 78(2) of the Act has been complied with, the date the last Notice of Application was distributed and details as to the classes of persons who received notice. Include reference to the Attachment or Tab at which the certified copy of the notice may be found.

Subsection 112(3) of the Act - Alternate Service:

If transmittal by public advertisement or otherwise, was used in lieu of individual notice, indicate the classes or groups for whom service by public advertisement was provided along with advice as to the dates and newspapers an advertisement ran or, if applicable the date other alternative forms of notice were given. Include reference to the Attachment or Tab at which copies of the newspaper advertisements and the Superintendent's authorization for service by public announcement may be found.

Subsection 79(3) of the Act - Conditions Precedent:

In the following sections, the applicant should satisfy the Commission that the conditions of the legislation that have been met.

(a) Clause 79(3)(a) - The Plan has a Surplus:

Provide advice as to the date of the Superintendent's letter approving the distribution of the members' and former members' basic benefits. Include reference to the Attachment or Tab at which extracts of the wind up report and supplemental report and a copy of the Superintendent's letter may be found. Include in the application a brief summary of the balance sheet for the plan as at the effective date of wind up along with an updated balance sheet if there has been any significant change in the figures. For example:

Balance Sheet	As at effective date of wind up	As of (current date)
Market value of assets	\$.00	\$.00
Liabilities		
Basic benefit entitlements	\$.00	\$.00
Liabilities for enhancements	\$.00	\$.00
Expenses	<u>\$.00</u>	<u>\$.00</u>
Surplus	\$.00	\$.00
Surplus sharing agreement:		
To employees	\$.00 (%)	
To employers	\$.00 (%)	

(b) **Clause 79(3)(b) of the Act - The Plan Provides for the Payment of Surplus to the Employer on the Wind Up of the Pension Plan:**

Provide an outline of the history of the plan provisions relating to the disbursement of surplus on wind up and, where any of the provisions have been amended since inception, the authority under the plan to amend. The outline must include reference to the plan documents, trust agreements, insurance contracts, employee booklets, collective bargaining agreements and any other relevant documents since the inception of the pension plan any prior pension plan. In addition, the outline should include reference to any documents that did not contain an express provision relating to surplus on wind up, or that were not supportive of the current application by the employer.

Reference should be included as to the Attachment(s) or Tab(s) at which clearly labelled copies of all relevant extracts from the plan documents, trust agreements, insurance contracts, employee booklets and notices, and any other documents or submissions respecting surplus entitlement may be found.

It is the responsibility of the applicant to satisfy the Commission that the conditions of the legislation for the Commission's consent to the application have been satisfied. Therefore, there should be some explanation or elaboration concerning why the applicant believes that the plan provides for payment of surplus to the employer.

(c) **Clause 79(3)(c) of the Act - Provision has been made for the Payment of All Liabilities of the Pension Plan:**

Outline the status of the distributions of basic benefits and surplus to members, former members and any other persons entitled to payments. If all distributions to the members and other persons have not been completed, the Commission's consent to the payment to the employer normally will not be effective until all entitlements of the members, former members and other persons have been paid, purchased, or otherwise provided to the satisfaction of the Commission.

Clause 8(1)(b) of the Regulation - Written Agreement

Provide a summary of the notices issued and signed agreements provided. For example:

Number	Total Issued	Notices	Written Consents	(%)
Employer	_____	_____	_____	_____
Collective Bargaining Agent(s)	_____	_____	_____	_____
Members	_____	_____	_____	_____
Former Members/ Other Persons	_____	_____	_____	_____

In addition:

- (a) notice was provided to (x) other persons who were members of the plan within the six years prior to the effective date of the wind up but who were not entitled to benefits payable under the plan

at the plan as of the effective date of wind up because their benefits were previously transferred out of the plan or they had no vested benefits when they terminated, and

- (b) notice was provided to (x) other persons for whom the plan administrator has purchased a pension, deferred pension, or ancillary benefit.

Subsection 8(2) of the Regulation - The Court Order

(a) Clause 8(2)(a) of the Regulation - The Status of the Application to Court:

Provide information concerning the status of the application to the court. Refer to the attachment which indicates the applicant's intention or where the copy of the order is located.

The applicant (enter "has applied" or "will apply") to the court for an order pursuant to clause 7a(2)(c) of O. Reg. 708/87 as that section read immediately before December 18, 1991 (enter "and has obtained" or "is to obtain") an order for payment of the surplus assets to the applicant on termination of the Plan.

(b) Clause 8(2)(b) of the Regulation - Eligibility as a "Grandfathered Plan":

Provide information supporting the applicant's position that the application is eligible to proceed under the "grandfathering provision".

The applicant may make application pursuant to clause 7a(2)(c) of O. Reg. 708/87 as that section read immediately before December 18, 1991 as (enter the reason why the plan is a "grandfathered plan", i.e., "the notice of proposal to wind up was filed prior to December 18, 1991" - enter the date of filing).

Representations

Indicate if any objections or representations were received. Refer to the attachment where copies of the objections or representations and any response(s) of the applicant are located.

Attachments

The applicant should provide an index of all attachments to the Application. It is preferred that the attachments be listed in an order which corresponds to the order of the subject matter under this document, and where applicable, in chronological order. Where an Application is a bound application, the relevant Tabs should be listed.



SECTION:	Surplus
INDEX NO.:	S900-400
TITLE:	Partial Wind Up - Identification and Administration of Surplus - Compliance with PBA, ss. 70(6)
APPROVED BY:	The Commission
PUBLISHED BBS:	June 28, 1994
PUBLISHED BULLETIN:	Summer 1994 Bulletin 5/2 p. 46
EFFECTIVE DATE:	June 23, 1994
REVISED DATE:	

Partial Wind Up - Identification and Administration of Surplus - Compliance with PBA, ss. 70(6)

Section 70(6) of the Pension Benefits Act, R.S.O. 1990 (the "Act") states:

On the partial wind up of a pension plan, members, former members and other persons entitled to benefits under the pension plan shall have rights and benefits that are not less than the rights and benefits they would have on a full wind up of the pension plan on the effective date of the partial wind up.

It is the Commission's position that the rights and benefits referred to in subsection 70(6) include any entitlement to surplus that would exist assuming that a full wind up of the plan occurred on the date of partial wind up. Where a surplus would exist on full wind up, it is not acceptable to identify partial wind up assets as those equal only to the partial wind up liabilities.

Clause 70(1)(c) of the Act requires that the Administrator of a plan that is to be wound up completely or in part file a wind up report that sets out "the methods of allocating and distributing the assets of the pension plan and determining the priorities for payment of benefits". Accordingly, on partial wind up, it is the actuary's responsibility to identify assets related to the partial wind up in the same manner as the Act would require on full wind up. The determination of the amount of assets related to a partial wind up must be done on a basis that is appropriate in the circumstances. Furthermore, where surplus is identified as a portion of the assets related to a partial wind up, it is the Administrator's responsibility to administer the surplus as required by the Act and Regulation 909, R.R.O. 1990, as amended (the "Regulation").

If a plan would be in a surplus position if it fully wound up at the date of the partial wind up, the failure to identify surplus related to the partial wind up is inconsistent with the following requirements of the Act and the Regulation:

- Subsection 70(6) and clause 70(1)(c) of the Act.
- The definition of partial wind up under Section 1 of the Act which provides that, “partial wind up” means the termination of a part of a pension plan and the distribution of the assets of the pension fund related to that part of the pension plan.
- Clause 28(2)(q) of the Regulation which requires, “... a statement of the method of distribution and, if applicable, the formula for allocation of any surplus among the plan beneficiaries.”
- Subsection 8(1) of the Regulation which states, “... No payment may be made from surplus out of a pension plan that is being wound up in whole or in part unless,
 - (a) the payment is to be made to or for the benefit of members, former members and other persons, other than an employer, who are entitled to payments under the pension plan on the date of wind up; or
 - (b) the payment is to be made to an employer with the written agreement of,
 - i) the employer,
 - ii) the collective bargaining agent of the members of the plan or, if there is no collective bargaining agent, at least two-thirds of the members of the plan, and
 - iii) such number of former members and other persons who are entitled to payments under the pension plan on the date of the wind up as the Commission considers appropriate in the circumstances.”

Whatever determination the Administrator makes concerning surplus identified on partial wind up, it must be in accordance with the Act, the Regulation and any relevant Commission policies, procedures and administrative practices. Distribution of the assets related to a partial wind up must conform with the proposals set out in the partial wind up report approved by the Superintendent. A supplement to a partial wind up report will be required if the surplus distribution proposals are not reflected in the initial report.



SECTION: Assets

INDEX NO.: A 700-153

TITLE: Asset Transfers Between Insurance Contracts or Policies

APPROVED BY:

PUBLISHED BULLETIN: Summer 1994 Bulletin 5/2 p.48

EFFECTIVE DATE:

REVISED DATE:

Asset Transfers Between Insurance Contracts or Policies

An administrative practice which identified the limited circumstances under which pension plan assets may be transferred from one insurance contracts or policies without the consent of the Superintendent was published in the February, 1992 *PCO Bulletin* (BBS No. A700-152).

The following table summarizes the main circumstances under which transfers of assets may occur and indicate whether the Superintendent's consent is required to be obtained before the transfer is made.

Asset Transfers

From	To	Superintendent's Approval Required
An investment contract or policy	A new investment contract or policy with the same insurance company issued in respect of the same pension plan	No
An investment contract or policy	A new investment contract or policy with a different insurance company issued in respect of the same pension plan	No
An investment contract or policy	A new investment contract or policy with the same insurance company issued in respect of a different pension plan .	Yes
An investment contract or policy	A new investment contract or policy with a different insurance company issued in respect of a different pension plan .	No Yes

Although the purpose of this administrative practice is to clarify the circumstances under which assets held under contracts or policies may be transferred without the Superintendent's consent, the same considerations also apply to assets held under custodial or trust agreements.

Changes to the Surplus Application Review Process Effective on and after September 1, 1994

A detailed administrative practice, which deals with applications to the Commission for surplus distribution to an employer pursuant to sections 78 and 79 of the Act and section 8 of the Regulation, is now available to administrators and is reproduced on page 32 of this issue.

The process for reviewing these applications by PCO staff will change on September 1, 1994 for two main reasons. Firstly, applicants are responsible for ensuring that applications are complete and comply with the Act, regulations, Commission policies and practices. The second reason is that the administrative practice is now available to assist administrators in completing the application.

In the past, applicants submitted the proposed notice to members and a preliminary application to PCO staff for review and comment prior to filing the final application. Staff will no longer review and comment on the proposed notice to members. Also, preliminary applications are no longer required to be submitted. Instead, only final applications that are formatted in the manner described in the administrative practice and which fully and completely meet the requirements set out therein will be processed by staff.

Effective on and after September 1, staff will not process any applications that do not meet **either** the formatting criteria or other requirements set out in the administrative practice. Such applications will be automatically returned to the applicant. Applicants are also reminded that surplus applications must be submitted at least ninety days prior to a Commission meeting for consideration by the Commission at that meeting.

New Consent Form May be Completed by the Administrator

In our continuing efforts to assist administrators and simplify administrative processes, applicants should refer to the new consent form on page 67 of this issue. The form was developed by the Commission and is intended to be filed as part of the final surplus application. Inclusion of this form with the application will expedite filing of Commission consent for surplus distribution under ss. 8(2) of the Regulation with the court.

The Use of Derivatives: Significant Issues for Pension Funds

This article is a slightly revised version of a speech delivered by Jules A. Huot, CFA, Senior Policy Analyst at the Pension Commission of Ontario to the Second Annual Conference on "Derivatives - Design, Regulation, Use" (sponsored by the Canadian Institute) on May 10, 1994 in Toronto, Ontario.

Growth of the Market

One important and well-known development over the last two or three decades has been the growing importance of institutional investors in bond and stock markets. Stock ownership by these institutions has grown from about one fifth of total market value twenty years ago to just under one half today.

Another important development during this period is the increase in the use of exchange-traded futures, not to mention stock options. In the U.S., the volume of trading in futures has grown from 18.2 million contracts to 340 million from 1972 to 1992. Global volume is estimated at 450 million contracts. The value of daily trading exceeds US\$300 billion, and the open interest is valued at above US\$1.4 trillion.

In Canada, securities trading grew from 1986 to 1992 at an average annual growth rate of 14 per cent to a level of \$2.7 trillion. During the same period, the over-the-counter derivatives position of the "Big Six" banks grew by 31 per cent to a notional amount of \$2.2 trillion.

These trends have evolved in parallel. Institutional investors have made very little use of futures or other derivatives. A survey carried out by *Institutional Investor* magazine indicated that only about 28 per cent of U.S. pension funds used futures of any kind for any purpose. Their investment in futures was estimated at less than 1 per cent of assets.

Derivatives are useful portfolio tools to manage risks and enhance returns, yet they have been little used in pension fund portfolios. There are several reasons to explain their low profile: inability to convince clients to use them, resistance to introducing a new "asset class", apprehension of greater risk, lack of knowledge, absence of standardization and complexity of trades. This paper attempts to deal with some of these issues as they affect pension funds.

The Regulatory Framework

The *Pension Benefits Act* of Ontario (the "Act") and its investment regulations present a mixed regime of prudence and quantitative limits. The latter are rather straightforward and compliance is relatively easy. Although these limits are immutable, the overriding concern is prudence - a concept which presents more subtlety than mere compliance with quantitative limits - which are judged at the overall portfolio level, and in terms of process rather than investment returns.

Prudence

The sections of the Act dealing with prudence and investments are 22 (subdivided into 11 subsections) and 62. The relevant sections read as follows.

Care, diligence and skill

22.--(1) The administrator of a pension plan shall exercise the care, diligence and skill in the administration and investment of the pension fund that a person of ordinary prudence would exercise in dealing with the property of another person.

Special knowledge and skill

(2) The administrator of a pension plan shall use in the administration of the pension plan and in the administration and investment of the pension fund all relevant knowledge and skill that the administrator possesses or, by reason of the administrator's profession, business or calling, ought to possess.

Member of pension committee, etc.

(3) Subsection (2) applies with necessary modifications to a member of a pension committee or board of trustees that is the administrator of a pension plan and to a member of a board, agency or commission made responsible by an Act of the Legislature for the administration of a pension plan.

Employment of agent

(5) Where it is reasonable and prudent in the circumstances so to do, the administrator of a pension plan may employ one or more agents to carry out any act required to be done in the administration of the pension plan and in the administration and investment of the pension fund.

Responsibility for agent

(7) An administrator of a pension plan who employs an agent shall personally select the agent and be satisfied of the agent's suitability to perform the act for which the agent is employed, and the administrator shall carry out such supervision of the agent as is prudent and reasonable.

Investment of pension fund

62. Every person engaged in selecting an investment to be made with the assets of a pension fund shall ensure that the investment is selected in accordance with the criteria set out in this Act and prescribed by the regulations. 1987, c.35, s.63.

The Learning Problem

In the present context, the key element is found in subsection 22(2) which states that "The administrator...shall use...all relevant knowledge and skill that...the administrator...ought to possess." It is quite clear from any casual study of capital markets that futures, options, swaps and other derivatives require a substantial commitment to continuing education. Furthermore, the learning process is never really complete as innovations continue.

Subsection 22(2) of the Act makes it also quite clear that it is no longer acceptable to refrain from pursuing certain investment practices or strategies for lack of knowledge. This presents a quandary for administrators and managers. It is obviously prudent to avoid making investments that one does not understand. But this is not prudent enough. There is a duty to acquire the necessary knowledge to arrive at a conscious and reasoned decision with respect to all available investments.

The risks of doing nothing have recently been highlighted by a court case in the U.S. where a board of directors was successfully sued for not hedging, because the organization had suffered large losses.

The challenge for an organization to venture into a new area is complicated by the various learning styles of individuals. There are basically four ways to learn something new: you can be told about it, you can read about it, you can be shown how it works, or you can proceed by trial and error. Obviously the last method will not be the prudent approach. It will conflict with the requirements of subsection 22(1) of the Act dealing with the care that must be exercised when dealing with the property of another person.

Applicability

Derivative instruments can be useful portfolio management tools for those who know how to use them. Exchange-traded derivatives are fairly straightforward and standardized. Custom designed over-the-counter derivatives are in a constant state of flux, and as such, present the greatest problems to investment committees, money managers, and regulators.

The Regulation to the *Pension Benefits Act* is essentially silent on the use of derivatives, as it is about most types of specific investments. The Regulation is essentially based on prudence and disclosure. It is not based on the nature of the instruments, on the quantity used, nor on their nationality (which is an Income Tax Act question).

Key Questions

The PCO has received a number of inquiries on various aspects of derivatives, and has seen a number of presentations on the uses of derivatives in pension portfolios. This is indicative of at least an awareness of derivatives, and possibly of an interest in them.

Since prudence is principally a matter of process in the fulfilment of fiduciary responsibility, there are a few basic questions a plan administrator should answer about how and why derivatives will be used. The following are some examples, and are not meant to be exhaustive.

Are Derivatives an Asset Class or a Tool?

This is a fundamental question. The answer will set the tone for the whole range of investment strategies, risk profile, performance analysis, and financial reporting for the pension fund.

As already mentioned, the concept of derivatives as an added asset class may be an almost insurmountable obstacle to their use in a pension fund. However, if derivatives are viewed as a tool for managing portfolio risk or to minimize transaction costs, the problem is then one of knowledge, not of philosophy or style.

Jumping ahead to the question of financial reporting and performance analysis, derivatives used as a separate asset class will be shown in a distinct section of the report. They could conceivably include a mixture of puts, calls, forwards, futures, and options

thereon, on both the long and short sides of the market. Their usefulness will be judged purely in relation to the incremental return they produce.

If derivatives are used as a risk management tool, it would be desirable to list them in financial statements with the underlying securities they are modifying, e.g., swaps and futures with bonds, options with equities, currency contracts with international security positions.

Would the Use of Derivatives be Appropriate Given the Current Structure of the Portfolio?

When the "foreign property" limit was 10 per cent and foreign investments were exclusively U.S. stocks, not much thought was given to currency risk, much less country risk. Now that the limit has been increased to 20 per cent, and those foreign securities might include a rather broad spectrum of international investments, the question of hedging the foreign currency component of the pension fund should be addressed. This is not to suggest that a foreign currency position should necessarily be hedged, but that the process of examining the question should be undertaken and documented.

Cash Flows and Policy Changes

When cash flows into and out of the fund are inconsistent with the maintenance of a chosen asset mix policy, the question arises as to whether fixed income or equity swaps might be used to manage these cash flows to minimize transaction costs.

Except for aggressive asset mix shifters, changes in asset mix policy are usually undertaken very gradually. The most common concerns touch upon costs, liquidity, avoidance of drastic moves, and fear of being wrong. Derivatives can ease the transition to a long-term asset allocation, or be used in an asset overlay strategy to re-balance the asset mix.

These are just a few examples of questions to be addressed in the management of a pension fund when assessing the practicality and extent of the use of derivatives. The main concern is managing portfolio risk, but cost containment, return enhancement, policy and strategy implementation are equally valid applications. These questions likely are even more timely in situations where there are several active managers.

Disclosure - Statement of Investment Policies and Goals

The complement to prudence is disclosure, both ex-ante in the Statement of Investment Policies and Goals (SIP&G), and ex-post, in the financial statements and performance reports.

The use or proposed use of derivatives must be indicated in the SIP&G. It would be desirable to do more than simply state that derivatives will be used, and to list the types of derivatives that will be used.

The SIP&G could describe what policies and strategies are being pursued. This could be done by listing the objectives e.g., to modify asset allocations, to adjust duration, to create synthetic securities, to hedge certain positions. Ideally, the specific types of derivatives to be used for each purpose will also be given. The purpose is to inform the reader - whether that person is a fund manager or a plan member - on the policies and the strategies pursued by the fund.

Disclosure - Financial Reporting

How pension plans should report and account for derivatives in their financial statements are dealt with by another speaker. It is generally accepted that certain derivatives - such as futures contracts - are "off-balance sheet" items, and need not be included in a fund statement, or that some do not have an asset value. However, the spirit of full disclosure requires that financial reports include the information necessary to impart fully the investment posture of the fund to a less experienced reader of the statements.

Evaluation

Although the regulator is not mandated to monitor investment performance, the regulator is vitally interested in the question as it affects the funding of pension liabilities. On the other hand, one should be consistent with the principle of full disclosure to beneficiaries, and with the application of care, skill and diligence in the management of a pension fund. Performance reports should measure the effectiveness of a derivatives strategy vis-a-vis its stated objective, and account for the value added from the use of the derivatives.

A good starting point would be the Performance Presentation Standards of the Association for Investment Management and Research (AIMR). These standards recommend complete disclosure of the nature of the strategies for portfolios using derivatives: a description of their use, their amounts,

the frequency of their use, and a discussion of their characteristics. These disclosures should be detailed enough for the administrator or the trustee to assess the effect of all the pertinent factors surrounding the returns and risks of the strategy or portfolio. It is incumbent upon the administrator or the trustee to elicit this information particularly if the administrator or trustee is to act with the appropriate degree of prudence in the supervision of the pension fund.

Summary

To summarize, trading in derivatives has grown to such an extent that it now constitutes a significant part of the capital markets, and these instruments add a new dimension to the management of investment portfolios in general, and pension funds in particular. Plan administrators and fund managers should acquaint themselves with all aspects of the principal characteristics of these vehicles. They should stay up-to-date with new developments and innovations in this field, and assess their applicability to the portfolios under their care. These are the key steps to follow in the prudential process. The complement to the exercise of prudence is full, true and meaningful disclosure and evaluation.

Invitation to Pension Professionals to Serve on PCO Advisory Committees

Advisory committees serve a vital function in the area of policy formulation and provide a link with all segments of the pension industry. The committees forge two-way communications between the legal, actuarial, investment and accounting and auditing communities, and the PCO.

The term of office of a number of committee members expire in September. Although some members may seek re-appointment, there are likely to be some vacancies. Qualified pension practitioners are invited to contact the Chair of the Committee of interest to enquire about terms of reference specific to that committee. The committees include:

- The Actuarial Advisory Committee, chaired by Marvin Ens
- The Legal Advisory Committee, chaired by David Vincent
- the Investment Advisory Committee, chaired by John Ilkiw
- the Accounting and Auditing Committee, chaired by Bruce Winter (there are no vacancies on this committee at this time)

Practitioners should indicate their interest in writing to the Chair of the committee (the addresses of Chairs are listed below). Committees generally get underway on September 1 of each year, so prospective committee members are encouraged to let their interest be known to the Chair as soon as possible.

Terms of Reference Common to All Advisory Committees

At the request of the PCO, the committees will review and comment on proposed amendments to the *Pension Benefits Act* and Regulations, and on Commission policies and amendments prior to publication for comment or, where the change is to be effective on publication, prior to finalization. The committees will also review and comment on other matters as the Commission may request. The Director of the Policy and Research Branch serves as a liaison between the committees and the PCO but, typically, PCO policy and professional staff work directly with committees on specific policy or review projects.

The committees may initiate and focus the PCO's attention on matters that, in the committees' opinion, should be reviewed including policies, practices and procedures. The committees report to the Chairman of the Commission, at least annually, on the initiatives of the committees and to raise any matters the committees consider should be addressed by the Commission.

Appointments and Terms

Committee members are appointed, generally for a two year term, by the Chairman of the Commission with advice from the Chair of the committee, the professional community, committee members and from other pension professionals practising in the field. The input from a variety of sources is valued and ensures that the committees are balanced and representative of the areas of practice in the field, e.g. on the actuarial advisory committee it is desirable to have representation from consulting firms, insurance companies, plan sponsors and others.

The addresses of the committee Chairs are:

Actuarial Advisory Committee

Mr. Marvin Ens
William M. Mercer Limited
BCE Place, 18th Floor
161 Bay Street
P.O. Box #501
Toronto, ON M5J 2S5

Legal Advisory Committee

Mr. David Vincent
Fasken, Campbell, Godfrey
P.O. Box 20
Toronto-Dominion Bank Tower
42nd Floor, Toronto-Dominion Centre
Toronto, ON M5K 1N6

Investment Advisory Committee

Mr. John H. Ilkiw, CFA
Vice President
Frank Russell Canada Limited
Suite #808
390 Bay Street
Toronto, ON M5H 2Y2

Your Questions Answered

We are told by our readers that "Your Questions Answered" is one of the most popular sections of the PCO Bulletin. The section is based on enquiries from our readers and the facts that they provide to us. It must be remembered that, although you may believe you are in a situation similar to the one described in this section, the answer to any question is subject to the facts of each particular case and the applicable law. Accordingly, the answers to the questions in this section have no legal authority nor should be construed as legal, actuarial, accounting or other professional advice. You should obtain independent professional advice if you have a particular interest in any of the matters addressed in this section.

Q. Is it possible to pay pension payments from a pension plan registered in Ontario in a form which duplicates the annual minimum and maximum withdrawal amount schedules provided for under a Life Income Fund?

A. Revenue Canada has advised the PCO in writing that the payment of "RRIF type" benefits from a registered pension plan are prohibited by the Regulations under the Income Tax Act (Canada). The Regulations stipulate that lifetime retirement benefits must be paid in equal, periodic amounts except under certain circumstances. Exceptions to the equal, periodic rule do not include an exception which would allow "RRIF type" payments to retirees.

Q. Does the legislated spousal entitlement to a 60 per cent joint and survivor benefit under section 44 of the PBA only apply to benefits accrued on and after January 1, 1987?

A. The time period over which a pension benefit has accrued is not a consideration for the purposes of section 44. The deciding factor is the date that retirement benefits (pre-reform and/or post-reform accruals) commence to be paid to a retiree. Section 44 has no application if the first instalment payment of a pension was due to be paid at any time up to and including December 31, 1987. Any pension that was not in pay by December 31, 1987 is subject to section 44.

Q. The PCO administrative practice under BBS Index No. G100-700 (which was originally published in the December 1990 issue of the PCO Bulletin) deals with benefit accruals which are determined in accordance with a schedule that is based on a band of hours worked within a specified period of time. Negotiated benefit schedules under MEPPs are used as examples. Is a benefit schedule that is not acceptable under a MEPP, acceptable for registration as part of a single employer plan?

A. No. MEPPs were highlighted in the administrative practice because this type of plan

is more likely to associate benefit accrual with hours of employment. The administrative practice indicates that benefit schedules based on bands of hours which are not truly reflective of the actual hours each member works are not accepted by the PCO. This applies to every MEPP or employer-sponsored pension plan that establishes hours of employment as the base for determining benefit accrual or required contributions.

Q. If a terminated plan member with a spouse has elected to transfer a benefit value to a Life Income Fund (a LIF), must the plan administrator ensure that the spouse has consented to the purchase of a LIF?

A. Yes. The plan administrator may not comply with the election until the spouse's written consent has been obtained.

Q. May active members of a pension plan receive a refund of additional voluntary contributions?

A. Yes, provided that the terms of the pension plan give active members the right to a refund of additional voluntary contributions with interest, those assets may be paid out of the plan fund in accordance with subsection 63(2) of the PBA. There is no requirement to obtain the Commission's consent to a refund of additional voluntary contributions.

However, if a contributory pension plan is amended to retroactively provide benefits on a non-contributory basis, required member contributions made to the effective date of the amendment are usually "deemed" to be additional voluntary contributions. Under these circumstances, "deemed" additional voluntary contributions may not be refunded to plan members without the consent of the Commission. Please refer to the administrative practice under BBS Index No. R400-100 for conditions applicable to "deemed" additional voluntary contributions.

BBS Index

The following policies were uploaded on July 22, 1994. We replaced material uploaded on June 28 because of suspected defective software used to prepare the files. In addition, several files uploaded on April 19: R500-201, R500-251 and S500-900 now include the French versions of Form 1, Form 1.1, Forms 3 and 4 (spousal waivers) and 1 PR (form) and spousal waivers.

A350-100.EXE	POLICY: ADVISORY COMMITTEES TO THE PCO invitation to serve on Advisory Committees to the PCO (Summer 1994 Bulletin 5/2 p. 53)	B900-200.EXE	POLICY: BROCHURES Brochure "When your pension plan winds up: what it means to members" (available only in WordPerfect v5.1 .EXE) Distributed previously.
A700-153.EXE	POLICY: ASSETS asset transfers between insurance contracts or policies (clarification of A700-152) (Summer 1994 Bulletin 5/2 p. 48)	B900-201.EXE	POLICY: BROCHURES Une Publication "Lorsque votre régime de retraite est liquidé: ce que cela signifie pour les participants" (available only in WordPerfect v5.1 .EXE) Distributed previously.
A700-225.EXE	POLICY: ASSETS superintendent consent required for asset transfer under subsection 81(8) (Spring 1994 Bulletin 5/1 p. 10*)	G100-701.EXE	POLICY: GRADUAL AND UNIFORM benefit accrual in a MEPP - clarification (Summer 1994 Bulletin 5/2 p.54)
B100-150.EXE	POLICY: BENEFITS form of benefit payment (Summer 1994 Bulletin 5/2 p.54)	I400-305.EXE	POLICY: INVESTMENT OF PENSION FUNDS use of derivatives - significant issues for pension funds (Summer 1994 Bulletin 5/2 p.49)
B900-100.EXE	POLICY: BROCHURES Brochure: "Understanding your pension plan: a guide for members of employer sponsored pension plans" (available only in WordPerfect v5.1 .EXE) Distributed previously.	L050-702.EXE	POLICY: LIFE INCOME FUND spousal consent required (Summer 1994 Bulletin 5/2 p.54)
B900-101.EXE	POLICY: BROCHURES Une Publication: "Comprendre votre régime de retraite. Guide destiné aux participants à des régimes de retraite organisés par l'employeur" (available only in WordPerfect v5.1 .EXE) Distributed previously.	P300-253.EXE	POLICY: PENSION COMMISSION OF ONTARIO (PCO) PROCEDURES how to obtain forms and publications on and after September 15, 1994 (Distribution from Oshawa) (Summer 1994 Bulletin 5/2 p.74)
		P300-255.EXE	POLICY: PENSION COMMISSION OF ONTARIO (PCO) PROCEDURES tips for dealing with the PCO (Spring 1994 Bulletin 5/1 p. 32*)

P300-705.EXE	POLICY: PENSION COMMISSION OF ONTARIO (PCO) PROCEDURES role of presiding officer at pre-hearing conference (Spring 1994 Bulletin 5/1 p. 8*)	(IPR Form available only in WordPerfect v5.1 .EXE) (Spring 1994 Bulletin 5/1 p. 37*)
R400-106.EXE	POLICY: REFUND OF CONTRIBUTIONS TO PLAN MEMBERS refund of additional voluntary contributions to active members PBA ss. 63(2) (Summer 1994 Bulletin 5/2 p.54)	S900-253.EXE POLICY: SURPLUS consent form for filing Commission consent to surplus withdrawal with court, O. Reg. 909, ss. 8(2) and previous regulation ss. 7a(2)(c) (Summer 1994 Bulletin 5/2 p. 67)
R500-150.EXE	POLICY: REGISTRATION common problems (Spring 1994 Bulletin 5/1 p. 31*)	S900-400.EXE POLICY: SURPLUS partial wind up-identification and administration of surplus - compliance with PBA, ss. 70(6) (Summer 1994 Bulletin 5/2 p. 46)
R500-201.EXE	POLICY: REGISTRATION preparation of an application for registration of a pension plan English and French versions (Form 1 available only in WordPerfect v5.1 .EXE) (Spring 1994 Bulletin 5/1 p. 12*)	S900-501.EXE POLICY: SURPLUS surplus distribution to an employer PBA, s. 78 and 79 and Reg. 909, s. 8 (Summer 1994 Bulletin 5/2 p. 32)
R500-251.EXE	POLICY: REGISTRATION preparation of an application for registration of a plan amendment, English and French versions (Form 1.1 available only in WordPerfect v5.1 .EXE) (Spring 1994 Bulletin 5/1 p. 23*)	S900-502.EXE POLICY: SURPLUS changes to the surplus application review process effective on Sep 1, 1994 (Summer 1994 Bulletin 5/2 p. 49)
S500-305.EXE	POLICY: SPOUSAL RIGHTS entitlement to spousal joint and survivor benefit (Summer 1994 Bulletin 5/2 p.54)	S900-900.EXE POLICY: SURPLUS allocation of surplus distributed to members and former members on wind up (Spring 1994 Bulletin 5/1 p. 28*)
S500-900.EXE	POLICY: SPOUSAL RIGHTS spousal waivers of joint and survivor pension and pre- retirement death benefit English and French versions (Forms 3 & 4 available only in WordPerfect v5.1 .EXE) (Spring 1994 Bulletin 5/1 p. 34*)	DECISIONS:
S700-125.EXE	POLICY: STATEMENT OF INVESTMENT POLICIES AND GOALS (SIP&G) investment policy return English and French versions	XDEC-01.EXE DECISION: Otis Canada, Inc. Pension Plan for Draftsmen, Local 164 - C-017647 Feb 9, 1989 (Feb 1990 Bulletin 1/1, p. 16)
		XDEC-02.EXE DECISION: Otis Canada Inc. Pension Plan for United Steel Workers of America, Local 7062 C-004669, Jun 13, 1989

	Mail distribution prior to establishment of PCO Bulletin	XDEC-10.EXE	DECISION: Pension Plan for Union Employees of Arrowhead Metals Ltd. - C-017136 Mar 26, 1992 (Jun 1992 Bulletin 3/1, p. 19)
XDEC-03.EXE	DECISION: Dominion Stores Limited Retirement Income Plan for Union Employees - C-016249, C-005188, Sep 28, 1989 Mail distribution prior to establishment of PCO Bulletin	XDEC-11.EXE	DECISION: Massey Combines Corp. Salaried Pension Plan - C-100879 Jun 18, 1992 (Oct 1992 Bulletin 3/2, p. 36)
XDEC-04.EXE	DECISION: Otis Canada Inc. Pension Plan for United Steel Workers of America, Local 7062 - C-004669 Feb 8, 1990 (Feb 1990 Bulletin 1/1, p. 11)	XDEC-12.EXE	DECISION: Stelco Inc. Retirement Plan for Salaried Employees - C-6968 Jul 27, 1992 (Oct 1992 Bulletin 3/2, p. 29)
XDEC-05.EXE	DECISION: Hospitals of Ontario Pension Plan - C-001500, Nov 22, 1990 (Dec 1990 Bulletin 1/4, p. 12)	XDEC-13.EXE	DECISION: Brewers Retail Pension Plan for Bargaining Unit Employees, C-254, Aug 4, 1992 (Oct 1992 Bulletin 3/2, p. 24)
XDEC-06.EXE	DECISION: General Motors Canadian Hourly-rated Employees' Pension Plan - C-008700, Jan 25, 1991 (Mar 1991 Bulletin 2/1, p. 17)	XDEC-14.EXE	DECISION: Brewers Retail Pension Plan for Bargaining Unit Employees, C-254, Aug 26, 1992 Mail distribution prior to establishment of PCO Bulletin
XDEC-07.EXE	DECISION: Cluett, Peabody & Co. Canada, Limited Employee Retirement Plan, Van Raalte Division, C-7208, May 6, 1991 (Jul 1991 Bulletin 2/2, p. 15)	XDEC-15.EXE	DECISION: Retirement Plan for the Employees of Saynor Varah Inc. and Affiliated Companies C-013393, Oct 22, 1992 (Dec 1992 Bulletin 3/3, p. 21)
XDEC-08.EXE	DECISION: Hospitals of Ontario Pension Plan (HOOPP) - C-001500 Jun 26, 1991 (Nov 1991 Bulletin 2/3, p. 16)	XDEC-16.EXE	DECISION: Stelco Inc. Retirement Plan for Salaried Employees - C-6968 Dec 4, 1992 (Mar 1993 Bulletin 3/4, p. 24)
XDEC-09.EXE	DECISION: American Federation of Musicians' and Employers' Pension Welfare Fund (Canada) - C-010382 Jun 27, 1991 (Nov 1991 Bulletin 2/3, p. 21)	XDEC-17.EXE	DECISION: Stelco Inc. Retirement Plan for Salaried Employees - C-6968 Dec 4, 1992 (Aug 1993 Bulletin 4/1, p. 40)

XDEC-18.EXE DECISION:
| Stelco Inc. Retirement Plan for
| Salaried Employees - C-6968
| Mar 18, 1993
| (Aug 1993 Bulletin 4/1, p. 48)

XDEC-19.EXE DECISION:
| Western Star Trucks Inc.
| Pension Plan for Non-bargaining
| Employees - C-18086
| Sep 21, 1993
| (Dec 93-Jan 94 Bulletin 4/2,
| p. 35)

XDEC-20.EXE DECISION:
| Retirement Income Plan of
| United Dominion Industries
| Limited, C-1470, Mar 24, 1994
| (Summer 1994 Bulletin 5/2,
| p. 68)

REGULATIONS

YREG-01.EXE REGULATION:
| O. Reg. 408/94 (English)
| (ss. 47(9), 47(10))
| Filed on June 24, 1994
| (Summer 1994 Bulletin 5/2,
| p. 7)**

YREG-02.EXE REGULATION:
| O. Reg. 408/94 (French)
| (ss. 47(9), 47(10)).
| Filed on June 24, 1994
| (Summer 1994 Bulletin 5/2,
| p. 7)**

YREG-03.EXE REGULATION:
| O. Reg. 409/94 (English)
| Filed on June 24, 1994
| (Summer 1994 Bulletin 5/2,
| p. 7)**

YREG-04.EXE REGULATION:
| O. Reg. 409/94 (French)
| Filed on June 24, 1994
| (Summer 1994 Bulletin 5/2,
| p. 7)**

YREG-05.EXE REGULATION:
| Finance Minister announces
| changes to pension rules -
| News release and fact sheets:
| (Summer 1994 Bulletin 5/2,
| p. 3)

YREG-06.EXE REGULATION:
| Explanatory notes on
| content of amendments to
| Regulation (O. Reg. 409/94)
| (Summer 1994 Bulletin 5/2,
| p. 5)

CAPSA

ZCAPSA01.EXE APPROVED VENDORS OF
| LIFS AND LIRAS
| May 1994 - Manitoba
| (available only in WordPerfect
| v5.1 .EXE)

ZCAPSA02.EXE APPROVED VENDORS OF
| LIFS, LIRAS and LRIFs
| June 1994 - Saskatchewan
| (available only in WordPerfect
| v5.1 .EXE)

ZCAPSA03.EXE APPROVED VENDORS OF
| LIFS and LIRAS
| July 1994 - Nova Scotia
| (available only in WordPerfect
| v5.1 .EXE)

ZCAPSA04.EXE APPROVED VENDORS OF
| LIFS and LIRAS
| July 1994 - Québec
| (available only in WordPerfect
| v5.1 .EXE)

* The articles appearing in the Spring 1994 Bulletin were uploaded to BBS on April 19, 1994. The Summer 1994 articles will be uploaded in July, 1994.

** Regulations 408/94 and 409/94 were uploaded to the BBS on June 28, 1994.

Superintendent of Pensions Notices/Orders

Notices of Proposal to Make an Order

The Superintendent, pursuant to subsection 89(5) of the PBA, R.S.O. 1990, c. P.8 [Notice of Proposed Wind-up Order], issued Notices of Proposal to Make an Order pursuant to section 69 of the PBA as follows (date of notice of proposal to make an order indicated):

- 1) Pension Plan for Employees of Sainthill Levine, Division of Work Wear Corporation of Canada Ltd. (C-16930)
- 2) The Pension Plan for Management and General Employees of Office Analysts and Business Systems Limited (C-12433)

Orders

The Superintendent issued Orders; pursuant to section 69 of the PBA [Wind-up Orders], as follows (effective date of wind up and date of order indicated, respectively):

- 1) T.A.G. Apparel Group Inc. Pension Plan for Salaried Employees of Penmans Apparel Inc. (C-101674), (effective February 27, 1990), May 18, 1994
- 2) T.A.G. Apparel Group Inc. Pension Plan for Hourly Paid Staff of Penmans (C-101676), (effective February 27, 1994), May 18, 1994
- 3) Pension Plan for Employees of A.C. Wickman Machine Tool, a Division of Williams & Wilson Ltd., (C-104425), (effective August 23, 1994), May 18, 1994

Tribunal Activities

This section summarizes matters related to the Pension Commission of Ontario.

1994 Commission Meeting Dates

The Pension Commission will convene on the following Thursdays in 1994:

July 21, September 22, October 20, November 17, December 15. The August 25th meeting has been cancelled.

1995 Dates for Commission Meetings

The Pension Commission will convene on the following Thursdays in 1995:

January 26, February 23, March 30, April 27, May 25, June 29, July 27, September 28, October 26, November 23, and December 14. The August 31st meeting has been cancelled.

PCO Board Members

The following members comprise the Commission:

Eileen E. Gillese, Chair
Monica J. Townson, Vice Chair
Darcie L. Beggs
M. David R. Brown
Kathryn M. Bush
Donald G. Collins
C. S. Kit Moore
Robert F. Nickerson
Joyce A. Stephenson

Hearings Before the Commission

General Motors of Canada Limited - Canadian Hourly-Rate Employees Pension Plan

A decision dated January 25, 1991 with respect to the preliminary hearing on standing held November 1, 1990 was published March 1991, Vol.2, Issue 1. Following a pre-hearing conference January 25, 1991, the hearing on the substantive issues commenced April 8 - 11, 16 - 18, May 30, 31, August 19, 20, October 23 - 25, 1991. On May 20, 1992, the hearing was adjourned sine die.

Pension Plan for Designated Employees of Tate Access Floors Inc. (C-103686)

The Commission has been requested to review a proposal dated March 31, 1992 by the Superintendent of Pensions to make an Order that the plan be wound up. This matter has been adjourned sine die on consent.

Consolidated GenCorp Canada Inc. Hourly Pension Plan (C-14498)

Consolidated GenCorp Canada Inc. Salaried Pension Plan (C-6895)

GenCorp Canada Inc. requested hearings with respect to a Notice of Proposal to Make an Order on each of the above plans issued by the Superintendent of

Pensions March 3, 1993 pursuant to s. 69 of the PBA that the plans be wound up in part effective September 27, 1991. A pre-hearing conference held October 1, 1993 joined the two hearings. The hearing was held May 2, 3, June 7, and 8, 1994. Judgment reserved.

Imperial Oil Limited Retirement Plan (C-8884) and Pension Plan for Employees of McColl-Frontenac Inc. (C-4280) (the "Plans")

Counsel for a group of former employees is appealing, under s. 89 of the PBA, the Decisions of the Superintendent of Pensions dated May 7 and 18, 1993 regarding Amendment of August 1991 to Section 4.3 of the Plans. A pre-hearing conference was held October 28, 1993 and adjourned *sine die*.

TIE/communications Canada Inc. Pension Plan for Employees (C-9884)

A pre-hearing conference was held January 7, 1994, before Ms. K. Bush, presiding member, regarding an application for Commission consent to the payment of surplus on wind up to TIE/communications Canada Inc. Hearing set for August 30 and 31, 1994.

Sheet Metal Workers' Local Unions and Councils Pension Plan (C-15249)

Request for hearing with respect to a decision of the Superintendent of Pension dated May 25, 1994 refusing to issue an order that the plan be administered in accordance with section 8(1)(e) and refusing to reject a plan amendment. A pre-hearing conference will be held September 8, 1994. Prof. Gillese presiding.

Westinghouse Canada Inc. Consolidated Pension Plan (C-9356)

A request for Hearing pursuant to a Notice of Proposal to Make an Order requiring the plan be wound up in part effective October 1, 1992, dated August 23, 1993. A pre-hearing conference will take place July 14, 1994. Prof. Gillese presiding.

Otis Canada, Inc. Pension Plan for Draftsmen Local 164, Ontario Registration Number C-17647

Application for Commission consent to the payment of surplus to Otis Canada Inc. A pre-hearing conference has been set for August 11, 1994. Prof. Gillese presiding.

**Commission Decisions - Applications
Approved Since February, 1994**

Applications Approved Under S. 8 of Reg. 909, R.R.O. 1990, as amended, and Ss. 78(1) of the PBA - Request for Consent of the Commission to Surplus Withdrawal on Plan Wind Up to be filed in Court

At the Commission meeting held April 28, 1994, the Commission consented pursuant to ss. 78(1) of the PBA and clause 8(2) of Reg. 909, as amended, to filing with the Court a consent to the payment of plan surplus plus investment earnings thereon to the date of payment as follows:

a) The Retirement Plan for Bargaining Employees of Westclox Canada Limited (C-19592) - Application by Talley Canada Inc.

In the calculation of the surplus attributable to employee and employer contributions, the plan actuary did not take into account contributions of all members who participated in the plan as required by the Commission's policy. The calculation was based only on members at the date of wind up. The Commission accepted the applicant's explanation that the Commission's policy was announced after the issuance of the notice containing this information and that the high rates of membership turnover experienced by the plan during its decades of existence prevented the actuary from performing the calculation based on contributions of all plan members.

Payment of surplus to Talley Canada Inc. from The Retirement Plan for Bargaining Employees of Westclox Canada Limited, C-19592, in the amount of \$402,000 as at August 1, 1991 plus investment earnings thereon to the date of payment less \$127.45 as at May 1, 1988 plus interest thereon to be paid to a member.

This consent shall not be effective until the administrator satisfies the Commission that all benefits, benefit enhancements, and any other payments to which members, former members and any other persons are entitled have been paid, purchased or otherwise provided for to the satisfaction of the Commission.

b) The Pension Retirement Plan for the Employees of Westclox Canada Limited (C-4036) - Application by Talley Canada Inc.

In the calculation of the surplus attributable to employee and employer contributions, the plan actuary did not take into account contributions of all members who participated in the plan as required by the Commission's policy. The calculation was based only on members at the date of wind up. The Commission accepted the applicant's explanation that the Commission's policy was announced after the issuance of the notice containing this information and that the high rates of membership turnover experienced by the plan during its decades of existence prevented the actuary from performing the calculation based on contributions of all plan members.

The Commission, after considering the issues fully, agreed with the findings of the court that the applicant was entitled to surplus and the agreement to payment of court costs incurred by the members.

Payment of surplus to Talley Canada Inc. from The Retirement Plan for Bargaining Employees of Westclox Canada Limited, C-19592, in the amount of \$964,000 as at August 1, 1991 plus investment earnings thereon to the date of payment less the \$1,000.24 in costs incurred by two individuals.

At the Commission meeting held May 26, 1994, the Commission consented pursuant to ss. 78(1) of the PBA and clause 8(2) of Reg. 909, as amended, to filing with the Court a consent to the payment of plan surplus plus investment earnings thereon to the date of payment as follows:

a) Retirement Plan for the Employees of Philipp Brothers (Canada) Ltd. (C-24826)

Payment of surplus to Philipp Brothers (Canada) Ltd. from the Retirement Plan for the Employees of Philipp Brothers (Canada) Ltd., C-24826, in the amount of \$519,874 as at December 31, 1985 plus investment earnings thereon to the date of payment (estimated to be \$1,306,363 as at June 1, 1993).

At the Commission meeting held June 23, 1994, the Commission consented pursuant to ss. 78(1) of the PBA and clause 8(2) of Reg. 909, as amended, to filing with the Court a consent to the payment of plan surplus plus investment earnings thereon to the date of payment as follows:

a) Revised Retirement Plan (1978) for Designated Executives of Nashua Canada Limited and Associated Companies (C-18361)

Payment of surplus to Nashua Photo Limited, formerly Nashua Canada Limited, from the Revised Retirement Plan (1978) for Designated Executives of Nashua Canada Limited and Associated Companies, C-18361, in the amount of \$133,353 as at October 31, 1990 plus investment earnings thereon to the date of payment.

This consent shall not be effective until the administrator satisfies the Commission that all benefits, benefit enhancements, and any other payments to which members, former members and any other persons are entitled have been paid, purchased or otherwise provided for to the satisfaction of the Commission. The Commission will file its consent with the Court pursuant to subsection 8(2) of the Regulation once the consent is effective.

b) The Retirement Plan for Salaried Employees of Nashua Canada Limited and Associated Companies (C-14899)

Payment of surplus to Nashua Photo Limited, formerly Nashua Canada Limited, from The Retirement Plan for Salaried Employees of Nashua Canada Limited and Associated Companies, C-14899, in the amount of \$308,043 as at October 31, 1990 plus investment earnings thereon to the date of payment.

This consent shall not be effective until the administrator satisfies the Commission that all benefits, benefit enhancements, and any other payments to which members, former members and any other persons are entitled have been paid, purchased or otherwise provided for to the satisfaction of the Commission. After all best efforts have been made for distribution of basic benefits, the remaining benefits may be paid into Court. The Commission will file its consent with the Court pursuant to subsection 8(2) of the Regulation once the consent is effective.

Applications Under Clause 8(1)(b) of Reg. 909, R.R.O. 1990 (as amended by O.R. 743/91) and Ss. 78(1) of the PBA - Surplus Withdrawal on Plan Wind Up

At the Commission meeting held February 24, 1994, pursuant to ss. 78(1) of the PBA and clause 8(1)(b) of

Reg. 909, R.R.O. 1990, as amended, the Commission consented to the payment of plan surplus plus investment earnings thereon to the date of payment as follows:

a) Pension Plan for Employees of Head/Tyrolia Sports Canada Inc. (C-103904)

Payment of surplus to Head/Tyrolia Sports Canada Inc. from the Pension Plan for Employees of Head/Tyrolia Sports Canada Inc., C-103904, in the amount of \$1,449,256 as at July 31, 1992. This consent shall not be effective until the administrator satisfies the Commission that all benefits, benefit enhancements, including enhancements pursuant to the surplus sharing agreement and any other payments to which members, former members and any other persons are entitled on the termination of the pension plan, have been paid, purchased or otherwise provided for to the satisfaction of the Commission.

b) Retirement Plan for Employees of D. C. Heath Canada Limited (C-12381)

Payment of surplus to D. C. Heath Canada Limited from the Retirement Plan for Employees of Machlett Canada Limited, C-12381, in the amount of \$22,561 as at December 31, 1990.

c) Pension Plan for Executive Employees of Real Time, a Division of Memotec Data Inc. (C-15225) - Application by Teleglobe Inc. (formerly Real Time, A Division of Memotec Data Inc.)

Payment of surplus to Teleglobe Inc. from the Pension Plan for Executive Employees of Real Time, A Division of Memotec Data Inc., C-15225, in the amount of \$250,935 as at July 31, 1990.

At the Commission meeting held March 24, 1994, pursuant to ss. 78(1) of the PBA and clause 8(1)(b) of Reg. 909, R.R.O. 1990, as amended, the Commission consented to the payment of plan surplus plus investment earnings thereon to the date of payment as follows.

a) Pension Plan for Salaried Employees of Chartcan Inc. (C-15043) - Application by Tubular Steel Products Ltd.

Payment of surplus to Tubular Steel Products Ltd. from the Pension Plan for Salaried Employees of

Chartcan Inc., C-15043, in the amount of \$69,418.20 as at June 30, 1991, plus investment earnings thereon to the date of payment less a proportionate share of all expenses associated with the wind up and surplus application. This consent shall not be effective until the administrator satisfies the Commission that all benefits, benefit enhancements, including enhancements pursuant to the surplus sharing agreement and any other payments to which members, former members and any other persons are entitled on the termination of the pension plan, have been paid, purchased or otherwise provided for to the satisfaction of the Commission.

b) Pension Plan for Senior Directors of Canadian Carpet Institute (C-19875)

Payment of surplus to Canadian Carpet Institute from the Pension Plan for Senior Directors of Canadian Carpet Institute, C-19875, in the amount of \$50,568.01 as at January 1, 1991, plus investment earnings thereon to the date of payment less \$500 for payment of administration fees.

c) Pension Plan for Senior Staff Employees of Tormon Assembly Agency Limited (C-11196) - Application by Tormon Ltd. (formerly Tormon Assembly Agency Limited)

Payment of surplus from the Pension Plan for Senior Staff Employees of Tormon Assembly Agency Limited, C-11196, to Tormon Ltd. in the amount of \$897,559.13 as at August 1, 1988, plus investment earnings thereon to the date of payment and to a payment of surplus to Conship Ltd. in the amount of \$119,068.13 as at August 1, 1988. This consent shall not be effective until the administrator satisfies the Commission that all benefits, benefit enhancements, including enhancements pursuant to the surplus sharing agreement, and any other payments to which members, former members and any other persons are entitled on the termination of the pension plan, have been paid, purchased or otherwise provided for to the satisfaction of the Commission.

At the Commission meeting held April 28, 1994, pursuant to ss. 78(1) of the PBA and clause 8(1)(b) of Reg. 909, R.R.O. 1990, as amended, the Commission consented to the payment of plan surplus plus investment earnings thereon to the date of payment as follows.

a) The Employees' Pension Plan for Salaried Employees of Shorewood Packaging Corp. of Canada Limited (C-100101)

Payment of surplus to Shorewood Packaging Corp. of Canada Limited from The Employees' Pension Plan for Salaried Employees of Shorewood Packaging Corp. of Canada Limited, C-100101, in the amount of \$502,743 as at March 31, 1993. This consent shall not be effective until the administrator satisfies the Commission that all benefits, benefit enhancements, including enhancements pursuant to the surplus sharing agreement and any other payments to which members, former members and any other persons are entitled on the termination of the pension plan, have been paid, purchased or otherwise provided for to the satisfaction of the Commission.

At the Commission meeting held May 26, 1994, pursuant to ss. 78(1) of the PBA and clause 8(1)(b) of Reg. 909, R.R.O. 1990, as amended, the Commission consented to the payment of plan surplus plus investment earnings thereon to the date of payment as follows.

a) Retirement Plan of Viacom Canada Limited (C-12531)

Payment of surplus to Viacom Canada Limited from the Retirement Plan of Viacom Canada Limited, C-12531, in the amount of \$257,930 as at December 31, 1991:

At the Commission meeting held June 23, 1994, pursuant to ss. 78(1) of the PBA and clause 8(1)(b) of Reg. 909, R.R.O. 1990, as amended, the Commission consented to the payment of plan surplus plus investment earnings thereon to the date of payment as follows.

a) Hunt Bros. Limited Executive Employees Pension Plan (C-16406)

Payment of surplus to Hunt Bros. Limited from the Hunt Bros. Limited Executive Employees Pension Plan, C-16406, in the amount of \$145,044 as at July 1, 1990.

b) Merrill Lynch Canada Inc. Pension Plan Number 16347 (C-100533)

Payment of surplus to Merrill Lynch Canada Inc. from the Merrill Lynch Canada Inc. Pension Plan

Number 16347, C-100533, in the amount of \$50,136 as at December 31, 1987.

c) Merrill Lynch Canada Inc. Pension Plan Number 17556 (C-100542)

Payment of surplus to Merrill Lynch Canada Inc. from the Merrill Lynch Canada Inc. Pension Plan Number 17556, C-100542, in the amount of \$197,145 as at June 30, 1989.

d) Merrill Lynch Canada Inc. Pension Plan Number 15580 (C-100529)

Payment of surplus to Merrill Lynch Canada Inc. from the Merrill Lynch Canada Inc. Pension Plan Number 15580, C-100529, in the amount of \$54,496 as at July 31, 1987.

e) Merrill Lynch Canada Inc. Pension Plan Number 14041 (C-100523)

Payment of surplus to Merrill Lynch Canada Inc. from the Merrill Lynch Canada Inc. Pension Plan Number 14041, C-100523, in the amount of \$74,656 as at March 31, 1989.

Application for Surplus Withdrawal - Continuing Pension Plan: s. 78(1) PBA & S.10 of Regulation 909, R.R.O. 1990, as amended

At the Commission meeting held March 24, 1994, pursuant to ss. 78(1) of the PBA and s.10 of the Reg., the Commission consented to the payment of plan surplus plus investment earnings thereon to the date of payment from a continuing plan as follows:

a) Unicorp Canada Corporation Executive Pension Plan (C-103442)

Payment of surplus from a continuing pension plan to Unicorp Energy Corporation from the Unicorp Canada Corporation Executive Pension Plan, C-103442, in the amount of \$64,364 as at December 31, 1990.

Application Approved under ss. 78(1), PBA & Clause 8(1)(b) of Reg. 909, R.R.O. 1990, as amended by O.R. 743/91, Request for Consent to Surplus Withdrawal on Plan Wind Up and ss.63(7) & (8), PBA, Request for Consent to Refund of Employee Contributions

At the Commission meeting held April 28, 1994, the Commission consented pursuant to ss. 78(1) of the

PBA & Clause 8(1)(b) of Reg. 909, R.R.O. 1990, as amended by O.R. 743/91 and ss. 63(7) and (8) of the PBA to the following:

a) Valley Camp Inc. Pension Plan (C-3268)

In the calculation of the surplus attributable to employee and employer contributions, the plan actuary did not take into account contributions of all members who participated in the plan as required by the Commission's policy. The calculation was based only on members at the date of wind up. The Commission accepted the applicant's explanation that the Commission's policy was announced after the issuance of the notice containing this information and that the calculation was based on the employee data that was available.

The issue of surplus related to a recent partial wind up were raised with the applicant by staff and the members affected by the partial wind up are now included in the present surplus application which has 100% member consent.

1. a) refund members' and deferred vested members' required contributions in the aggregate amount of \$221,776 as at December 31, 1992 plus investment earnings thereon to the date of payment, and
 - b) refund required contributions of former members who elected a commuted value transfer of their deferred vested pension benefit at their dates of termination of employment [other than those in item (c) below] in the aggregate amount of \$10,166 as at December 31, 1992 plus investment earnings thereon to the date of payment, and
 - c) refund required contributions of former members who elected the transfer option as a result of the partial plan wind-up effective April, 1988 in the aggregate amount of \$231,180 as at December 31, 1992 plus interest (average 5 year bank rate) to the date of payment.
2. Payment of surplus to Valley Camp Inc. from the Valley Camp Inc. Pension Plan, C-3268, in the amount of \$1,829,495 as at December 31, 1992. This consent shall not be effective

until the administrator satisfies the Commission that all benefits, benefit enhancements, including any enhancements arising from the surplus sharing agreement, and any other payments to which members, former members and any other persons are entitled on the termination of the pension plan have been paid, purchased or otherwise provided for to the satisfaction of the Commission.

Applications Approved under Ss. 63(7) & (8) of the PBA - Return of Member Contributions

At the Commission meeting held May 26, 1994, the Commission consented pursuant to ss. 63(7) & (8) of the PBA to the refund of member required contributions as follows:

a) Confederation Life Insurance Company Pension Plan for Canadian Salaried Employees (C-1343)

Refund of eligible members' required contributions from the Confederation Life Insurance Company Pension Plan for Canadian Salaried Employees, C-1343, in the amount of approximately \$10,000,000 plus interest to the date of payment. Eligible members are those members who elect to retire with a retirement date between August 31, 1994 and December 31, 1994 inclusive, or under any special retirement programme in effect for retirements during such period.

Applications Approved under ss. 78(4) of the PBA - Return of Overpayment

At the Commission meeting held February 24, 1994, the Commission consented pursuant to ss. 78(4) of the PBA to the refund of overpayments as follows:

a) The Retirement Plan for Salaried Employees of Liquid Carbonic Inc. (C-14880)

Refund of an overpayment in the amount of \$806,500 made in 1993 from the Retirement Plan for Salaried Employees of Liquid Carbonic Inc., C-14880.

b) The Retirement Plan for Hourly-Paid Employees of Liquid Carbonic Inc. (C-1264)

Refund of an overpayment in the amount of \$131,280 made in 1993 from the Retirement Plan for Hourly-Paid Employees of Liquid Carbonic Inc., C-1264.

At the Commission meeting held May 26, 1994, the Commission consented pursuant to ss. 78(4) of the PBA to the refund of an overpayment as follows:

a) Pension Plan for Designated Employees of Blue-Con Inc. (C-103595)

Refund of an overpayment of contributions in the amount of \$17,871 to Blue-Con Inc. from the Pension Plan for Designated Employees of Blue-Con Inc., C-103595.

Pension Benefits Guarantee Fund ("PBGF")

On February 24, 1994, the Commission, pursuant to ss. 90(1) of the PBA, issued a Notice of Proposal to make a Declaration pursuant to ss. 83(1) of the PBA that the PBGF applies to the following pension plan:

a) Pension Plan for Salaried Employees of Penmans Apparel Inc. (C-101674) - TAG Apparel Group Inc.

On March 24, 1994, the Commission, pursuant to ss. 90(1) of the PBA, issued Notices of Proposal to make a Declaration pursuant to ss. 83(1) of the PBA that the PBGF applies to the following pension plans:

a) Pension Plan for Designated Hourly Paid Employees of Penmans Apparel Inc. (C-101676) - TAG Apparel Group Inc.

b) Pension Plan for Union Employees of the Rexdale Plant of Chromalox Inc. (C-103203)

c) Pension Plan for Employees of Canada Decal Inc. (C-19796)

d) MacLeod-Stedman Incorporated Retirement Pension Plan (C-7623) - Registered in Manitoba

On May 26, 1994, the Commission, pursuant to ss. 83(1) of the PBA, declared that the PBGF applies to the following pension plans for the following reasons:

a) T.A.G. Apparel Group Inc. Pension Plan for Salaried Employees of Penmans Apparel Inc. (C-101674)

(a) The Employer is bankrupt within the meaning of the Bankruptcy Act.

(b) Although the Pension Plan was established within three years of the date of wind up, the Commission is satisfied that the defined

benefits provided under the plan are not exempt from the application of the Guarantee Fund for the following reasons:

i) The evidence shows that the Pension Plan assumed responsibility for pension benefits accrued under the pension plan of Dominion Textile Inc. pursuant to the purchase by T.A.G. Apparel Group Inc. of the Penmans Division of Dominion Textile Inc. (the "Predecessor Employer") as contemplated by subsection 80(2) of the Act.

ii) On October 1, 1968 the Dominion Textile Inc. Staff Retirement Income Plan (the "Predecessor Plan") was established.

iii) Pursuant to the agreement of purchase and sale, assets and liabilities were transferred from the Predecessor Plan to the Pension Plan to provide for the pension benefits earned by the salaried employees of Penmans prior to October 28, 1987 (the date of purchase and sale). The Administrator has advised the Commission that on April 11, 1988 assets in the amount of \$833,108 were transferred from the Predecessor Plan to the Pension Plan. The Administrator has also advised that at the date of the transfer of assets, the plan was fully funded.

The Pension Plan text also states that entitlements and benefits accrued under the Predecessor Plan are incorporated and preserved in the Pension Plan.

iv) The Commission is satisfied that the Pension Plan was established pursuant to an arms length transaction.

(c) The wind-up report filed by the Administrator indicates that the funded ratio of the defined benefit portion of the Pension Plan is approximately 27% as of the date of wind up.

(d) The administrator has advised that there are no assets available in the estate for distribution to preferred and ordinary secured creditors and, therefore, any claim for the shortfall in the Pension Plan asserted

against the estate pursuant to section 75 of the Act would have no value.

b) T.A.G. Apparel Group Inc. Pension Plan for Hourly Paid Staff of Penmans (C-101676)

(a) The Employer is bankrupt with the meaning of the Bankruptcy Act.

(b) Although the Pension Plan was established within three years of the date of wind up, the Commission is satisfied that the defined benefits provided under the plan are not exempt from the application of the Guarantee Fund for the following reasons:

i) The evidence shows that the Pension Plan was to assume responsibility for pension benefits accrued under the pension plan of Dominion Textile Inc. pursuant to the purchase by T.A.G. Apparel Group Inc. of the Penmans division of Dominion Textile Inc. (the "Predecessor Employer") as contemplated by subsection 80(2) of the Act.

ii) On January 1, 1982, the Pension Plan for Hourly Paid Employees of the Penmans Division of Dominion Textiles Inc. (the "Penmans Plan") was established. On January 1, 1986 the Penmans Plan was merged with the Pension Plan for Designated Hourly-Paid Employees of Dominion Textiles and certain subsidiaries (the "Predecessor Plan").

iii) The text of the Pension Plan defines "Continuous Service" and "Pensionable Service" to include service with the Predecessor Employer and under the Predecessor Plan. The agreement of purchase and sale states that assets and liabilities were to be transferred from the Predecessor Plan to the Pension Plan to provide for the pension benefits earned by the hourly paid staff of Penmans prior to October 28, 1987 (the date of purchase and sale).

iv) The transfer of assets was not completed prior to the date of bankruptcy because the Regie des Rentes du Quebec had not yet approved the transfer of assets from the Predecessor Employer's pension plan.

v) It is not clear that subsection 80(2) of the Act requires a transfer of assets in order for the pension plan of a successor employer to be deemed to be a continuation of a predecessor employer's pension plan.

vi) The Commission is satisfied that the Pension Plan was established pursuant to an arms length transaction.

vii) The Administrator has advised the Commission that the Predecessor Employer has agreed to assume responsibility for the solvency liability for benefits accrued prior to October 28, 1987. Moreover, since the going concern liability exceeded the solvency liability at October 28, 1987, the Predecessor Employer has also agreed to pay an amount, equal to the difference between the two valuations, to the Pension Plan. The Administrator has advised the Commission that these actions by the Predecessor Employer will result in the Pension Plan being in the same funded position as if the asset transfer had been completed.

(c) The preliminary wind up calculations provided by the Administrator indicate that the funded ratio of the Pension Plan is approximately 71% as at the date of wind up.

(d) The Administrator has advised that there are no assets available in the estate for distribution to preferred and ordinary secured creditors and, therefore, any claim for the shortfall in the Pension Plan asserted against the estate pursuant to section 75 of the Act would have no value.

Draft Consent Form to Expedite Filing of Commission Consent for Surplus Distribution Under ss. 8(2) of the Regulation With the Court

Employers applying for consent to the payment of surplus out of a pension plan pursuant to subsection 8(2) of the Regulation (and s.7a(2)(c) of the Regulation as it read immediately before December 18, 1991) are encouraged to attach a draft consent to their application. This will expedite the filing of consents with the court for those cases which are approved by the Commission.

The preamble portion to the draft consent should accurately reflect how the applicant has met the requirements of the Act and regulations. If the Commission finds that the draft consent form needs revision, it may request the applicant to make such revisions. The suggested format for a draft consent is shown below.

IN THE MATTER OF AN APPLICATION BY
(insert the name of the company making the application),
FOR THE CONSENT OF THE PENSION COMMISSION OF ONTARIO
TO THE PAYMENT OF SURPLUS FROM THE
(insert the name of the pension plan),
REGISTRATION NUMBER (insert "C" number),
(insert the name of the company making the application)

) (date signed by Chair)
) (to be inserted by Chair)

C O N S E N T

THIS APPLICATION made by (insert the name of the company making the application) for the consent of the Pension Commission of Ontario (the "Commission") to the payment of surplus from the (insert the name of the pension plan), Registration Number (insert "C" number) (the "Pension Plan"), was considered by the Commission at 250 Yonge Street, Toronto, Ontario on (insert the date of the Commission meeting at which the application will be considered);

UPON being satisfied that proper notice of the application for surplus payment had been given pursuant to subsection 78(2) of the Pension Benefits Act, R.S.O. 1990, c. P.8 (the "Act");

AND UPON reviewing the Wind Up Report (as at (insert the effective date)) dated (insert date) prepared by (insert the name of the company that prepared the report), [include the following if a supplemental report has been filed, "and the Wind Up Report (as at (insert the effective date)) dated (insert date) prepared by (insert the name of the company that prepared the report),"] and all other material filed in support of the application;

AND UPON considering the responses received from participants of the Pension Plan;

THE COMMISSION HEREBY CONSENTS pursuant to subsection 78(1) of the Act and subsection 8(2) of Regulation 909, R.R.O. 1990, as amended, to a payment of surplus to (insert the name of the company making the application) from the (insert the name of the pension plan) in the amount of \$(insert the amount of the refund requested) as at (insert the effective date of the last filed report) plus investment earnings thereon to the date of payment (estimated to be \$(insert estimated refund amount) as at (insert effective date of the estimate)).

THE COMMISSION will file its consent with the Court pursuant to subsection 8(2) of the Regulation.

Eileen E. Gillese, Chair
Pension Commission of Ontario



INDEX NO.: XDEC-20

PLAN: United Dominion Industries Limited
C-4170

DATE OF DECISION: ss. 78(1) and 79(3) of the PBA and c. 8(1)(b) of Regulation 909,
as amended by O. Reg. 743/91

PUBLISHED BBS: July 25, 1994

PUBLISHED BULLETIN: Summer 1994 Bulletin 5/2, p. 68

IN THE MATTER OF the Pension Benefits Act, R.S.O. 1990, c.P. 8

AND IN THE MATTER OF an application by United Dominion Industries Limited for distribution of surplus out of the Retirement Income Plan of United Dominion Industries Limited pursuant to sections 78 and 79(3) of the Pension Benefits Act and Section 8(1)(b) of Regulation 909, as amended by Regulation 743/91

BETWEEN:

United Dominion Industries Limited - Applicant

and

The Sun Life Assurance Company of Canada
and the individual Respondents Named in Schedule "A"
attached hereto - Respondents

Heard: October 28, 1993 and November 25, 1993
Toronto, Ontario

Heard by: M.J. Regan, Chair
E.E. Gillese, Vice Chair
M.D. Brown
K. Bush
D. Collins
R. Nickerson

Counsel for the Applicant:
I. McSweeney
D. McFarlane

Counsel for the United Steelworkers union group of employees:
D. Campbell

Counsel for the Goss and Management Groups of employees:

B. Lawrie

B. Worndl

REASONS FOR DECISION

Conclusion

On November 25, 1993, the Pension Commission of Ontario ("the Commission") orally consented to the payment of surplus to the Applicant, United Dominion Industries Limited ("the Applicant") in the amount of \$27,300,000 as at July 31, 1993, plus investment earnings thereon to the date of payment, from Retirement Income Plan of United Dominion Industries Limited, PCO Registration No. C-4170 ("the Plan"). The consent was not to be effective until the administrator satisfied the Commission that all benefits, benefit enhancements, including enhancements pursuant to the surplus sharing agreement and any other payments to which members, former members and other persons were entitled had been paid, purchased or otherwise provided for to the satisfaction of the Commission.

After giving its consent, the Commission advised all parties that written reasons for decision would be forthcoming. These are the promised reasons for decision.

Nature of the Application

The application was brought pursuant to sections 78(1) and 79(3) of the Pension Benefits Act ("the Act") and section 8(1)(b) of Regulation 909, as amended by Regulation 743/91 ("Regulation 909").

It was made pursuant to a surplus sharing agreement under the terms of which 38.5% of the surplus, amounting to \$17,100,000, would be returned to certain members, former members and other persons and 61.5% of the surplus, amounting to \$27,300,000 was to be returned to the Applicant. A portion of the surplus being returned to the Applicant, in the amount of \$2,500,000, was to be distributed to members of two salaried pension plans registered in Manitoba and Quebec for employees in those provinces who were formerly members of the Plan.

It was the uncontroverted evidence of the Plan actuary that the contributions made by the Applicant formed no part of the surplus sought by the Applicant.

Consents

There was separate legal representation for Plan members and former members. Brian Shell consented in his capacity as legal counsel for the United Steelworkers of America on behalf of the Steelworkers Union and the inactive members of the Plan who were also members of the Steelworkers Union. Dona Campbell of the law firm Sack Goldblatt Mitchell acted on behalf of 152 inactive Plan members who provided written consents to the Commission staff and who were also members of the Steelworkers Union. Barbara Lawrie of the law firm Aird & Berlis represented two employee groups representing 1,251 active and inactive Plan members who also provided written consents.

All counsel indicated their consent to the arrangement on behalf of their client groups as did the United Steelworkers of America, through Mr. Leo Gerard, National Director of the United Steelworkers of America.

87.2% of active Plan members consented to the surplus sharing arrangement. Of the inactive Plan members, 80% provided consent and another 4% indicated their support but could not be counted for the purposes of a consent because of a defect in the consent form as, for example, where there was an absence of a witness to the signature. The breakdown of consents with the inactive group was: 22% of deferreds; 64.6% of pensioners; and, 82.5% of annuitants.

In considering the matter of consents, it is relevant to note that approximately 2% of the Plan population opposed the surplus sharing arrangements. It is also important to note that 5% of inactive Plan members had died pending resolution of the surplus matter since the first ongoing Plan withdrawal proposal was made in October of 1991. 63% of inactive Plan members were over the age of 70. 22% of inactive Plan members were over the age of 80.

History of the Application

The application was first considered by the Commission at its meeting of Oct. 28, 1993. The task of the Commission was clear: to determine whether the Applicant had met the requirements in both subs. 8(1) of regulation 909 and in subs. 79(3) of the Act.

Subsection 8(1) Requirements

The requirements of clause 8(1)(b) of Regulation 909, as interpreted by the Commission, are that surplus cannot be paid out to an employer except in accordance with the written consent of the collective bargaining agent, or if there is no such agent, at least two-thirds of the active Plan members, plus the consent of at least two-thirds of the former and other members.

It was clear that the Applicant more than met the consent requirements of subs. 8(1).

Subsection 79(3) Requirements

Two matters were discussed in relation to the requirements of subs. 79(3). First, benefits had not been paid out as required by clause 79(3)(c). However, the Commission was satisfied, based on the Applicant's assurances, that all such benefits would be paid and, in any event, the matter could be resolved by making such benefit payments a condition of Commission consent.

The second matter, however, was not so easily disposed of. At issue was whether the Applicant had satisfied clause 79(3)(b) of the Act ("the Clause") which requires that "...the pension plan provides for payment of surplus to the employer on the wind up of the pension plan".

After deliberations at its October meeting, the Commission -- through the Registrar -- wrote to all parties in a letter dated November 3, 1993, requesting additional submission on this issue. The relevant portion of that letter is set out now.

"The Commission requires written submissions as to the relationship between subsection 79(3)(b) of the Pension Benefits Act, R.S.O. 1990, c. P.8 and clause 8(1)(b) of Regulation 909, R.R.O. 1990 as amended by Ontario Regulation 743/91. In particular, your submissions are to address how the Commission can properly fulfil its role as a fiduciary in considering subsection 79(3)(b) in the face of the need for less than 100% consent pursuant to clause 8(1)(b)."

The Applicant satisfied all other requirements of the subs. 79(3) and Commission policies in respect of such application.

The Issue

The Applicant asked that the Commission find that the requirements of the Clause had been met by virtue of Article 18.06 of the Plan. Article 18.06 specifically provides for payment of surplus pension plan assets to the Applicant following the satisfaction of all Plan liabilities. The relevant portion of Article 18.06 is:

Surplus upon Termination

If there are any remaining assets after the liabilities for all benefits of this Plan accrued to date of termination for all those eligible for benefits under the Plan have been provided for, they shall be returned to the Company subject to any conditions or any approval procedures under the applicable Pension Laws and Revenue Rules.

In the past, when surplus applications were made pursuant to the terms of s. 7a of the old Regulations to the Act, the Commission refused to accept that its function in respect of the Clause was satisfied if the most current plan documentation provided for surplus reversion to an Employer. Rather, we held that we could only properly fulfil our statutory duties by determining surplus entitlement after a complete examination of all plan documentation.

The Commission continues to reject the idea that its role is properly fulfilled by reference only to current plan documentation. As we said in our decision of September 21, 1993 relating to the application of Western Star Trucks Inc. :

“...the Commission’s role in respect of surplus withdrawal applications is that of a fiduciary. The Commission must independently determine whether the Applicant has satisfied all of the requirements of the legislation... The passage of s. 8 of the Regulations cannot change the requirements of the Act. Subsection 79(3) is still in place. Therefore the Commission must still ensure that clause 79(3)(b) has been met and that the provisions in the Plan providing for surplus reversion to the applicant are valid.”

How, then, is the approach of the Commission different when dealing with applications under Regulation 909? As we said in the Western Star decision referred to above, the degree of scrutiny that the Commission will apply to plan documentation when determining if the requirements of the Clause have been met will vary from case to case. In this case, members and former members had separate legal representation, the requisite number of consents have been obtained as required by clause 8(1)(b) and all other legislative and policy requirements have been met. As well, the Commission was keenly aware of the other relevant facts, set out above in the section entitled “Consents”, which relate to the size of the population opposing the application and surplus sharing agreement, the percentage of Plan members that had died pending resolution of the application and the age distribution of the remaining inactive Plan members. In light of all these factors, the Commission did not scrutinize the plan documentation as stringently as it would have under the old regulation nor, indeed, as it would absent one or more of those facts.

The Commission found that the requirements of the Clause had been met. It was for these reasons that we consented to the application.

Dated this 24th day of March, 1994 at Toronto, Ontario

M.J. Regan	K. Bush
E.E. Gillese	D. Collins
M.D. Brown	R. Nickerson

Orders for **forms and publications** will be processed and hard copies distributed from the Ministry of Finance in Oshawa **on and after September 15, 1994**. To place an order for forms and publications **only** call 1-800-263-7965 (English enquiries) or 1-800-668-5821 (French enquiries) or TDD# 1-800-263-7776.

Enquiries pertaining to the completion of the forms should be directed to the pension officer or assistant at the PCO. For more information, please refer to the article following this section.

Contacts for PCO Enquiries

Actuarial Services	Anna Montenegro	314-0559
Annual Information Return Filing Fee	George Ha	314-0676
Communications - Publications and BBS	Judith Chalmers	314-0699
Issues & Correspondence, also FOIPOP Requests* & Media Enquiries	Margaret Dougherty	314-0697
General Enquiries		314-0660
Mailing List Update	Linda Stangl	314-0694
Policy Issues	Susan Ellis	314-0703
	Cynthia James	314-0702
(Bilingual)	Jules Huot	314-0613
PBGF Assessment	George Ha	314-0676
Registrar	Mary Crocker	314-0624

* Written Freedom of Information and Protection of Privacy (FOIPOP) requests should be mailed to Ron Ward, Assistant Co-ordinator, Information and Privacy Office, Ministry of Finance, 4th floor, 1075 Bay Street, Toronto ON M5S 2B1 call (416) 325-8369 or fax (416) 325-8252.

Contacts for Plan-related Enquiries

1. Sector Allocations - (At least one plan with 250 or more members)

Sectors	Pension Officer		Alternate	
Agriculture, Mining Construction, Finance...	Rosemine Jiwa-Jutha	314-0611	Larry Falconer	314-0610
Trade, Commercial, Public Administration	Larry Falconer	314-0610	Rosemine Jiwa-Jutha	314-0611
Food, Beverages, Textiles, Paper...	Jaan Pringi	314-0586	Larry Martello	314-0587
Rubber, Plastics, Transportation Equipment	Larry Martello	314-0587	Jaan Pringi	314-0586

Printing, Primary Metals, Machinery...	Larry Murray	314-0644	David Kearney	314-0590
Electrical, Non-Metallic, Chemicals...	David Kearney	314-0590	Larry Murray	314-0644

2. Alpha Allocations - Defined Benefit & Multi-Employer Plans (Plans with less than 250 members)

Alpha Range	Pension Officer		Alternate	
A-BRI	David Allan	314-0612	Elizabeth Carter	314-0604
BRO-COM	Steve Young	314-0646	Mark Henry	314-0584
CON-EZZ	Alain Malaket	314-0609	John Graham	314-0647
F-HAZ	Mark Henry	314-0584	Steve Young	314-0646
HEA-KMZ	William Qualtrough	314-0641	Sandy Malloy	314-0636
KNA-MPQ	Elizabeth Carter	314-0604	David Allan	314-0612
MOR-PNZ	Stanley Chan	314-0635	Maureen Barber	314-0645
POL-SHE	Maureen Barber	314-0645	Stanley Chan	314-0635
SHI-TORO	Sandy Malloy	314-0636	William Qualtrough	314-0641
TORR - *	John Graham	314-0647	Alain Malaket	314-0609

*Companies with alpha-numeric names.

3. Alpha Allocations - Defined Contribution Plans

Alpha Range	Pension Analyst		Alternate	
A-Canada	Doug Kaye	314-0605	John Staric	314-0596
Canadian-COK	Margaret Fennell	314-0600	Claude De Souza	314-0608
COL-DIL	Claude De Souza	314-0608	Margaret Fennell	314-0600
DIM-FLO	John Staric	314-0596	Debra Bain	314-0640
FLU-HAL	Margaret Fennell	314-0600	Claude De Souza	314-0608
HAM-JAL	Merle Corbie	314-0637	Lynn Barron	314-0639
JAM-MIL	Debra Bain	314-0640	John Staric	314-0596
MIN-ONT	Claude De Souza	314-0608	Margaret Fennell	314-0600
ONU-RAL	Lynn Barron	314-0639	Merle Corbie	314-0637
RAM-SHA	John Staric	314-0596	Debra Bain	314-0640
SHE-THA	Merle Corbie	314-0637	Lynn Barron	314-0639
THE-VUL	Lynn Barron	314-0639	Merle Corbie	314-0637
VUM - *	John Staric	314-0596	Debra Bain	314-0640

4. Alpha Allocations - Pension Plans of Insolvent Companies

Alpha Range	Co-ordinator	
A-E	Jai Persaud	314-0595
F-S	Robin Gray	314-0593
T-#s*	Jai Persaud	314-0595

*Companies with alpha-numeric names.

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The PCO Introduces One Call Shopping for all Your Forms and Publications Needs

Effective on Thursday, September 15, 1994 the Client Services and Public Relations Branch of the Ministry of Finance in Oshawa will be processing your orders for hard copies of all PCO forms* and publications.

The PCO will continue to accept requests for forms and publications only **until Wednesday, September 14, 1994.**

And here are three easy steps to follow for obtaining forms and publications:

Step 1

Make a phone call on or after Thursday, September 15, 1994:

- English speaking callers dial 1-800-263-7965
- French speaking callers dial 1-800-668-5821
- TDD 1-800-263-7776

(There are no long distance charges when calling from any location in Ontario!)

Step 2

Speak with one of the helpful and experienced program information officers and tell them the items you require. The officers can assist you with orders for hard copies of forms and publications only. Any enquiries concerning the completion of forms should be directed to the appropriate pension officer or assistant at the PCO.

Please refer to the list below. The officer will transmit your request to the distribution centre where all PCO forms and publications are stocked. Some publications are out-of-print and their status is noted below. It is not possible to fax forms to clients.

Step 3

Carry on your business. Within a few days your request will arrive by mail!

* * *

- * The only exception is prescribed Form 2, the Annual Information Return (AIR) and Schedules A, B and C which the PCO pre-prints and mails to Administrators within sixty days after the pension plan's year end. Enquiries should be directed to George Ha at (416) 314-0676.

Forms and Publications Listing, July 1994

I FORMS

Re: Application for Registration of a Pension Plan

Package of materials consists of:

- prescribed Form 1 in English and French
- a guide to preparing an application for registration of a pension plan (published in the *PCO Bulletin*, Spring 1994 issue, page 12)
- Application for Registration Fees Schedule (English only)

Re: Application for Registration of a Pension Plan Amendment

Package of materials consists of:

- prescribed Form 1.1 in English and French
- a guide to preparing an application for registration of a pension plan amendment (published in the *PCO Bulletin*, Spring 1994 issue, page 23)

Re: Spousal Waivers

Form 3 - Spousal Waiver of Joint and Survivor Pension - English and French

Form 4 - Spousal Waiver of Pre-retirement Death Benefit - English and French (English version published in the Spring, 1994 issue of the *PCO Bulletin* (page 34 - 36); French version published in the Summer, 1994 issue of the *PCO Bulletin*)

Re: Wind Up of Defined Benefit and Defined Contribution Pension Plans

Superintendent's Checklist for Compliance on Plan Wind Up - Defined Benefit Plans - English only

Superintendent's Checklist for Compliance on Plan Wind Up - Defined Contribution Plans - English only

Re: Statement of Investment Policies and Goals

Investment Policy Return (Form) - English and French (the English version of the IPR was published in the Spring, 1994 issue of the *PCO Bulletin* (page 37); the French version was published in the Summer, 1994 issue of the *PCO Bulletin*)

II BROCHURES

A *When your Pension Plan Winds Up: What it Means to Members*

Lorsque votre régime de retraite est liquidé: ce que cela signifie pour les participants

B *Understanding your Pension Plan: A Guide for Members of Employer Sponsored Pension Plans*

Comprendre votre régime de retraite guide destiné aux participants à des régimes de retraites organisés par l'employeur

III Compliance Assistance Guidelines: Status of CAGs and Disposition of Forms

In the Spring 1994 issue of the *PCO Bulletin*, we announced the discontinuation of *Compliance Assistance Guidelines*. The following explains the status of CAGs (several continue to be effective), replacement policies, where applicable and the disposition of forms.

Compliance Assistance Guideline No. 1: A Guide to Preparing An Application For Registration of a Pension Plan

- CAG not available, effective until May 1, 1994 only
- BBS reference for CAG #1: R500-200
- **replaced by administrative policy R500-201** which was published in the Spring 1994 issue of the *PCO Bulletin* and is available on the BBS. It is titled "preparation of an application for registration of a pension plan" (includes Form 1 in English and French and a Fees Schedule)

Compliance Assistance Guideline No. 2: A Guide to Preparing an Annual Information Return

- CAG not available
- Form 2 (and Schedules) is pre-printed by the PCO and mailed to the administrator within sixty days of the year end of the pension plan

Compliance Assistance Guideline No. 3: A Guide to Preparing, Reviewing and Amending a Statement of Investment Policies and Goals

- CAG effective and available
- CAG references sections according to the PBA, 1987 and Reg. 708
- BBS reference for CAG #3: S700-100
- the Superintendent's form - Investment Policy Return (IPR) was **replaced by updated IPRs at policy S700-125** (in English and French) and is available on the BBS

Compliance Assistance Guideline No. 4: A Guide to the Wind Up of a Pension Plan

- CAG effective and available
- CAG references sections according to the PBA, 1987 and Reg. 708
- BBS reference for CAG #4: W100-100

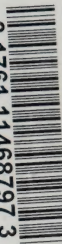
Compliance Assistance Guideline No. 5: A Guide to Completing a Pension Plan Document Checklist, effective November 1, 1992

- CAG not available, not effective on and after May 1, 1994
- BBS reference for CAG #5: R500-250
- **replaced by administrative policy R500-251** which was published in the Spring 1994 issue of the *PCO Bulletin* and is available on the BBS. It is titled "preparation of an application for registration of a plan amendment" (includes Form 1.1 in English and French)

IV The PCO Bulletin

Volume 1, Issue 1	February 1990	(out of print)	Volume 3, Issue 1	June 1992
Volume 1, Issue 2	May 1990	(out of print)	Volume 3, Issue 2	October 1992
Volume 1, Issue 3	September 1990		Volume 3, Issue 3	December 1992 (out of print)
Volume 1, Issue 4	December 1990		Volume 3, Issue 4	March 1993 (out of print)
Volume 2, Issue 1	March 1991		Volume 4, Issue 1	August 1993
Volume 2, Issue 2	July 1991		Volume 4, Issue 2	December 1993/January 1994
Volume 2, Issue 3	November 1991		Volume 5, Issue 1	Spring, 1994
Volume 2, Issue 4	February 1992	(out of print)	Volume 5, Issue 2	Summer, 1994

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